

**SMITH LILLIS PITHA LLP**  
DAMIEN P. LILLIS (SBN 191258)  
dlillis@slplawfirm.com  
400 Montgomery Street, Suite 501  
San Francisco, California 94104  
Telephone: (415) 814-0405  
Facsimile: (415) 217-7011

Attorneys for Plaintiff  
Simmonds & Narita LLP

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

SIMMONDS & NARITA LLP, a limited  
liability partnership,

Plaintiff,

v.

JEFFREY SCHREIBER; SUZANNE E.  
SCHREIBER; and DOES 1 through 50,  
inclusive,

Defendants.

Case No. CV 08 2209 SI

**PLAINTIFF'S REQUEST FOR JUDICIAL  
NOTICE IN OPPOSITION TO  
DEFENDANTS' MOTION TO DISMISS  
AND/OR TRANSFER; DECLARATION OF  
DAMIEN P. LILLIS**

Date: July 25, 2008  
Time: 9:00 a.m.  
Courtroom: 10, 19<sup>th</sup> Floor  
Judge: Honorable Susan Illston

**REQUEST FOR JUDICIAL NOTICE**

Plaintiff Simmonds & Narita LLP ("Plaintiff") respectfully requests that this Court take judicial notice of the following documents and facts pursuant to Federal Rule of Evidence 201.

**PLAINTIFF REQUESTS JUDICIAL NOTICE OF THE FOLLOWING DOCUMENTS**

1. The Complaint filed by Robert Siemons against Defendants Jeffrey Schreiber and Suzanne Schreiber, Schreiber & Associates, P.C., The Schreiber Law Firm LLC, Harris & Dial P.C., among others, on August 25, 2004, Case No. VG041721155, in the Alameda County Superior Court

(the "Alameda Litigation"), along with the "doe" amendments to the Complaint filed December 16, 2004 naming Jeffrey Schreiber and Suzanne Schreiber (and dba S&A Services of Marion, Ltd.), Schreiber & Associates, P.C., The Schreiber Law Firm LLC, and Harris & Dial P.C. in the place of certain "doe" defendants. A true and correct copy of this Complaint and its doe amendments are attached as Exhibit A to the accompanying Declaration of Damien P. Lillis.

2. The Declaration of Jeffrey Schreiber in Support of Motion for Summary Judgment or Summary Adjudication, filed in the Alameda Litigation on July 3, 2007. A true and correct copy of this document is attached as Exhibit B to the accompanying Declaration of Damien P. Lillis.

3. The Declaration of Suzanne Schreiber in Support of Motion for Summary Judgment or Summary Adjudication, filed in the Alameda Litigation on July 3, 2007. A true and correct copy of this document is attached as Exhibit C to the accompanying Declaration of Damien P. Lillis.

4. The Memorandum in Opposition to Motion for Summary Judgment filed by Robert Siemons in the Alameda Litigation on September 12, 2007. A true and correct copy of this document is attached as Exhibit D to the accompanying Declaration of Damien P. Lillis.

5. The Alameda County Superior Court's Order denying the Schreibers' motion for summary judgment/adjudication in the Alameda Litigation, filed on or about October 3, 2007. A true and correct copy of this document is attached as Exhibit E to the accompanying Declaration of Damien P. Lillis.

6. Notice of Removal, filed in this action on April 29, 2008. A true and correct copy of this document is attached as Exhibit F to the accompanying Declaration of Damien P. Lillis.

7. The Registrar of Actions/Docket from the Alameda Litigation. A true and correct copy of the Registrar is attached as Exhibit G to the accompanying Declaration of Damien P. Lillis.

### **JUDICIAL NOTICE IS APPROPRIATE**


Under Federal Rule of Evidence 201(d), "[a] court shall take judicial notice if requested by a party and supplied with the necessary information." Under Federal Rule of Evidence 201(b), "[a] judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned."

Courts may properly take judicial notice of pleadings and orders filed in other courts, particularly when such proceedings have a direct relationship to the case and matters at issue. *See, e.g., MGIC Indem. Corp. v. Weisman*, 803 F. 2d 500, 504 (9th Cir. 1986) (holding that a court may take judicial notice of its own files and files of other cases); *see also United States ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F. 2d 244, 248 (9th Cir. 1992) (taking judicial notice of potentially dispositive state court judgment). Also, the judicial admissions of a party in pleadings filed in other actions are facts "capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned."

Plaintiff requests judicial notice of Defendants' judicial filings in the Alameda County Superior Court, under Federal Rules of Evidence 201(b) and (d), because such filings establish that Defendants have no basis to challenge venue in this action.

Dated: July 3, 2008

SMITH LILLIS PITHA LLP

By:   
 DAMIEN P. LILLIS  
 Attorneys for Plaintiff Simmonds & Narita LLP

### DECLARATION OF DAMIEN P. LILLIS

I, Damien P. Lillis, declare:

1. I am an attorney duly admitted to practice before this District Court and others and all of the courts of the State of California. I am a partner of Smith Lillis Pitha LLP, attorneys for Plaintiff Simmonds & Narita LLP in this action. I have personal knowledge of the matters set forth in this Declaration, and if called to testify, I could and would competently testify to them.

2. Attached hereto as Exhibit A is a true and correct copy of the Complaint filed by Robert Siemons against Defendants Jeffrey Schreiber and Suzanne Schreiber, among others, on August 25, 2004 in Case No. VG041721155 in Alameda County Superior Court (the "Alameda Litigation"), along with several "doe" amendments to the Complaint filed December 16, 2004 naming Jeffrey Schreiber and Suzanne Schreiber (and dba S&A Services of Marion, Ltd.), Schreiber & Associates, P.C., The Schreiber Law Firm LLC, and Harris & Dial P.C. in the place of certain "doe" defendants. (All documents filed in

1 the Alameda Litigation action are available online at

2 <http://apps.alameda.courts.ca.gov/domainweb/html/index.html>.)

3 3. Attached hereto as Exhibit B is a true and correct copy of the Declaration of Jeffrey  
4 Schreiber in Support of Motion for Summary Judgment or Summary Adjudication, filed in the Alameda  
5 Litigation on July 3, 2007.

6 4. Attached hereto as Exhibit C is a true and correct copy of the Declaration of Suzanne  
7 Schreiber in Support of Motion for Summary Judgment or Summary Adjudication, filed in the Alameda  
8 Litigation on July 3, 2007.

9 5. Attached hereto as Exhibit D is a true and correct copy of the Memorandum in Opposition to  
10 Motion for Summary Judgment filed by Robert Siemons in the Alameda Litigation on September 12,  
11 2007.

12 6. Attached hereto as Exhibit E is a true and correct copy of the Alameda County Superior  
13 Court's Order denying the Schreibers' motion for summary judgment/adjudication in the Alameda  
14 Litigation, filed on or about October 3, 2007.

15 7. Attached hereto as Exhibit F is a true and correct copy of the Notice of Removal filed by  
16 Defendants in this action on April 29, 2008.

17 8. Attached hereto as Exhibit G is a true and correct copy of the Registrar of Actions/Docket  
18 from the Alameda Litigation, also available on the court's web site noted above.

19 9. Attached hereto as Exhibit H are true and correct copies of pages printed/copied from the  
20 web site [www.schreiblaw.com](http://www.schreiblaw.com), which is (on information and belief) owned and operated by Defendant  
21 Jeffrey Schreiber.

22 I declare under penalty of perjury that the foregoing is true and correct, executed this 3rd day of  
23 July, 2008 at San Francisco, California.

24 

26 Damien P. Lillis

# **EXHIBIT A**

1 Stephen A. Cain, SB#111049  
2 Attorney at Law  
3 1101 Standiford Avenue, Suite A-7  
4 Modesto CA 95350  
5 Telephone: (209) 567-1300

6  
7 Attorney for Plaintiff  
8 ROBERT MICHAEL SIEMONS

FILED BY FAX  
ALAMEDA COUNTY

August 25, 2004

CLERK OF  
THE SUPERIOR COURT  
By Rosanne Case, Dep

9 SUPERIOR COURT OF CALIFORNIA  
10 COUNTY OF ALAMEDA

CASE NUMBER:  
VG04172155

11 ROBERT MICHAEL SIEMONS,

12 Plaintiff,

13 vs.

14 FIRST U.S.A. BANK, N.A.,  
15 S & A SERVICES OF MARION, LTD,  
16 TRIAD, WILLIAM D. KWIA TEK, JASON  
17 MAPLES, RANDALL NEIN, and DOES 1-100,  
inclusive,

Defendants.

Case No.:

COMPLAINT FOR DAMAGES

18 Plaintiff alleges:

19 1. The defendant FIRST USA BANK, N.A. is a business, the exact form of which is  
20 unknown and at all times relevant to this lawsuit was doing business and committing the torts,  
21 hereinafter alleged, within the State of California.

22 2. The defendant S & A SERVICES OF MARION, LTD, is a business, the exact form  
23 of which is unknown and at all times relevant to this lawsuit was doing business and committing the  
24 torts hereinafter alleged, within the State of California.

25 3. The defendant TRIAD, is a business, the exact form of which is unknown and at all  
26 times relevant to this lawsuit was doing business and committing the torts hereinafter alleged, with-  
27 in the State of California.

28 ////

1           4.       The defendants RANDALL NEIN, JASON MAPLES and WILLIAM D. KWIA TEK  
2 are individuals whose state of residence is unknown to the plaintiff as of the present time, that at all  
3 times relevant to this lawsuit were doing business and committing the torts hereinafter alleged,  
4 within the State of California.

5           5.       At all times herein mentioned, plaintiff was and now is an officer and management  
6 employee of a business known as Siemons Mailing Service, Inc., located in the City of Berkeley,  
7 County of Alameda, State of California and a resident of Contra Costa County, California and at all  
8 times relevant hereto, other than for the conduct complained of in this lawsuit, has enjoyed a good  
9 reputation both generally and in his occupation.

10          6.       The plaintiff is ignorant of the true names and capacities of defendants sued herein  
11 as DOES 1-100, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff  
12 will amend this complaint to allege their true names and capacities when ascertained. Plaintiff is  
13 informed and believes and thereon alleges that each of the fictitiously named defendants is  
14 responsible in some manner for the occurrences herein alleged, and that the plaintiff's damages as  
15 herein alleged were proximately caused by their conduct.

16          7.       The defendants FIRST USA BANK, N.A., S & A SERVICES OF MARION, LTD,  
17 TRIAD, RANDALL NEIN, JASON MAPLES and WILLIAM D. KWIA TEK and DOES  
18 100, at all times herein mentioned were the agents and employees of their codefendants FIRST  
19 USA BANK, N.A., S & A SERVICES OF MARION, LTD, TRIAD, RANDALL NEIN, JASON  
20 MAPLES and WILLIAM D. KWIA TEK and DOES 1-100 and in doing the things hereinafter  
21 alleged were acting within the course and scope of such agency and the permission and consent of  
22 their co-defendants.

23          8.       That on March 10, 2003, FIRST USA BANK, N.A. confirmed in writing that the  
24 plaintiff did not owe any money to FIRST USA BANK, N.A..

25          9.       That none of the defendants have ever possessed or known of the existence of any  
26 evidence to prove that the plaintiff has ever had an account with any of the defendants.

27          10.       That none of the defendants have ever possessed or known of the existence of any  
28 evidence to prove that the plaintiff has ever received any money from any of the defendants.



1           11. That none of the defendants have ever possessed or known of the existence of any  
2 evidence to prove that the plaintiff has received any credit from any of the defendants.

3           12. That none of the defendants have ever possessed or known of the existence of any  
4 evidence to prove that the plaintiff has entered into any contract with any of the defendants.

5           13. That within one year prior to the filing of this complaint, the defendants FIRST USA  
6 BANK, N.A., S & A SERVICES OF MARION, LTD, TRIAD, RANDALL NEIN, JASON  
7 MAPLES and WILLIAM D. KWIATEK and DOES 1-100 have sent and continue to send a report  
8 ("report") of credit information regarding the plaintiff to Equifax Information Services, Experian  
9 Corporation, TRW and Trans Union Credit bureaus.

10           14. That the report sent by the defendants to the credit bureaus has been read by potential  
11 lenders and creditors of the plaintiff, within the County of Alameda, State of California and  
12 elsewhere.

13           15. That the report sent by the defendants to the credit bureaus states that the plaintiff is  
14 indebted to the defendants in an amount in excess of \$26,000.00.

15           16. That the report sent by said defendants to those credit reporting bureaus is false.

16           17. That the report sent by said defendants was false in that it inaccurately reports that  
17 the plaintiff is indebted to FIRST USA BANK N.A., when in truth the plaintiff has never applied  
18 for nor received any credit from FIRST USA BANK, N.A., which was known by said defendants  
19 prior to the time that it sent the report to Equifax and other credit reporting bureaus.

20           18. That notwithstanding their knowledge that the information contained in the report  
21 was false, the defendants and each of them have knowingly given and continue to provide untrue  
22 credit information regarding the plaintiff to Equifax and the other credit reporting burcaus in  
23 violation of California Civil Code Section 1747.70(a) and after receiving an inquiry from the  
24 plaintiff, the defendants and each of them have refused to withdraw unfavorable information about  
25 the plaintiff and refused to cease and desist from publishing unfavorable information about the  
26 plaintiff, within the County of Alameda, State of California and elsewhere.

27 /////

28 /////



1           19. That the defendants and each of them deliberately and intentionally refuse to correct  
2 false information that they have knowingly published regarding the plaintiff, in particular that the  
3 plaintiff is allegedly in debt to the FIRST USA BANK N.A. or its alleged assignee(s).

4           20. That the defendant FIRST USA BANK, N.A. with knowledge of and after receiving  
5 notice that the plaintiff was the victim of identify theft, sold the debt ("debt") allegedly incurred by  
6 the plaintiff's identify theft, in violation California Civil Code Section 1785.16.2(c) to the defendant  
7 TRIAD on July 6, 2001 and that with knowledge that the plaintiff did not owe any money to FIRST  
8 USA BANK, N.A., the defendant TRIAD thereafter sold the debt to the defendant S & A  
9 SERVICES OF MARION, LTD.

10           21. That as a proximate result of the above-described report, the plaintiff has suffered  
11 damage, within the County of Alameda, State of California and elsewhere, to his reputation, shame,  
12 mortification and hurt feelings all to his general damage.

13           22. As a further proximate result of the above-described report, the plaintiff has suffered  
14 the following special damages; increased interest expenses when obtaining financial credit, within  
15 the County of Alameda, State of California and elsewhere.

16           23. That above-described publication was published by the defendants with malice, fraud  
17 and oppression in that said defendants knew that the contents of their publication were false and  
18 untrue and yet published the report with the intention and expectation of extorting money from the  
19 plaintiff in order to avoid further ongoing damage to his credit rating and because the defendants  
20 did not want to truthfully report profits and losses to their stockholders, investors and creditors and  
21 therefore the plaintiff also seeks an award of punitive damage to punish the defendants and deter  
22 them from engaging in such conduct and injury other people in the future.

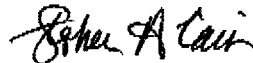
23           24. That the conduct of the defendants and each of them as described in the foregoing  
24 paragraphs numbered eight (8) through twenty-three (23), which are incorporated herein by  
25 reference, was intended to cause the plaintiff to suffer severe emotional distress within the County  
26 of Alameda, State of California and that as a result of said conduct by the defendants the plaintiff  
27 has suffered and continues to suffer severe emotional distress consisting of loss of sleep, loss of  
28 appetite, irritability, loss of self-esteem, anxiety and depression all to his general damage.

1           25. That as a result of the defendants' intentional infliction of severe emotional distress,  
2 the plaintiff has also incurred special damages to help alleviate his loss of sleep, loss of appetite,  
3 irritability, loss of self-esteem, anxiety and depression.

4           WHEREFORE, the plaintiff prays judgment against the defendants and each of them as  
5 follows:

- 6           1. For general damages according to proof.
- 7           2. For special damages according to proof.
- 8           3. For punitive damages.
- 9           4. For reasonable attorney fees.
- 10          5. For costs of suit.
- 11          6. For such other and further relief as this Court may deem just and proper.

12  
13 Dated: August 25, 2004



Stephen A. Cain  
Attorney for Plaintiff  
ROBERT MICHAEL SIEMONS

FILED BY FAX  
ALAMEDA COUNTY

July 20, 2007

CLERK OF  
THE SUPERIOR COURT  
By Robbi McIntosh, Deputy

CASE NUMBER:  
VG04172155

1 Stephen A. Cain, SB#111049  
Attorney at Law  
2 1101 Standiford Avenue, Suite D-2  
Modesto CA 95350  
3 Telephone: (209) 567-1300

4 Attorney for Plaintiff  
5 ROBERT MICHAEL SIEMONS

6  
7  
8 SUPERIOR COURT OF CALIFORNIA  
9 COUNTY OF ALAMEDA  
10

11 ROBERT MICHAEL SIEMONS,

12 Plaintiff,

13 vs.

14 FIRST U.S.A. BANK, N.A.,  
S & A SERVICES OF MARION, LTD,  
15 TRIAD, WILLIAM D. KWIA TEK, JASON  
16 MAPLES, RANDALL NEIN, and DOES 1-100,  
inclusive,

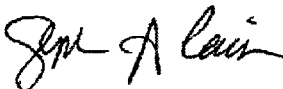
17 Defendants.  
18

Case No.: VG04172155

AMENDMENT TO COMPLAINT  
CCP Section 474 (DOE 5)

19 Upon filing the complaint herein, plaintiff being ignorant of the true name of a defendant  
20 and having designated said defendant in the complaint by a fictitious name, to wit: DOE 5, and  
21 having discovered the true name of said defendant to be SCHREIBER & ASSOCIATES, P.C.,  
22 hereby amends his complaint by inserting such true name in the place and stead of such fictitious  
23 name wherever it appears in said complaint.

24 Dated: July 20, 2007

  
\_\_\_\_\_  
Stephen A. Cain  
Attorney for Plaintiff  
ROBERT MICHAEL SIEMONS

FILED BY FAX  
ALAMEDA COUNTY

July 20, 2007

CLERK OF  
THE SUPERIOR COURT  
By Robbi McIntosh, Deputy

CASE NUMBER:  
**VG04172155**

1 Stephen A. Cain, SB#111049  
Attorney at Law  
2 1101 Standiford Avenue, Suite D-2  
Modesto CA 95350  
3 Telephone: (209) 567-1300

4 Attorney for Plaintiff  
5 ROBERT MICHAEL SIEMONS

8 **SUPERIOR COURT OF CALIFORNIA**  
9 **COUNTY OF ALAMEDA**

11 ROBERT MICHAEL SIEMONS,

12 Plaintiff,

13 vs.

14 FIRST U.S.A. BANK, N.A.,  
15 S & A SERVICES OF MARION, LTD,  
16 TRIAD, WILLIAM D. KWIA TEK, JASON  
MAPLES, RANDALL NEIN, and DOES 1-100,  
inclusive,

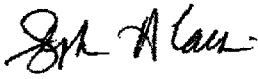
17 Defendants.

Case No.: **VG04172155**

AMENDMENT TO COMPLAINT  
CCP Section 474 (DOE 7)

19 Upon filing the complaint herein, plaintiff being ignorant of the true name of a defendant  
20 and having designated said defendant in the complaint by a fictitious name, to wit: DOE 7, and  
21 having discovered the true name of said defendant to be The SCHREIBER LAW FIRM, LLC,  
22 hereby amends his complaint by inserting such true name in the place and stead of such fictitious  
23 name wherever it appears in said complaint.

24 Dated: July 20, 2007

  
\_\_\_\_\_  
Stephen A. Cain  
Attorney for Plaintiff  
ROBERT MICHAEL SIEMONS

FILED BY FAX  
ALAMEDA COUNTY

July 20, 2007

CLERK OF  
THE SUPERIOR COURT  
By Robbi McIntosh, Deputy

CASE NUMBER:  
VG04172155

1 Stephen A. Cain, SB#111049  
2 Attorney at Law  
3 1101 Standiford Avenue, Suite D-2  
4 Modesto CA 95350  
5 Telephone: (209) 567-1300

6 Attorney for Plaintiff  
7 ROBERT MICHAEL SIEMONS

8 SUPERIOR COURT OF CALIFORNIA  
9 COUNTY OF ALAMEDA

10 ROBERT MICHAEL SIEMONS,

11 Plaintiff,

12 vs.

13 FIRST U.S.A. BANK, N.A.,  
14 S & A SERVICES OF MARION, LTD,  
15 TRIAD, WILLIAM D. KWIA TEK, JASON  
16 MAPLES, RANDALL NEIN, and DOES 1-100,  
inclusive,

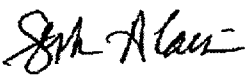
17 Defendants.

Case No.: VG04172155

AMENDMENT TO COMPLAINT  
CCP Section 474 (DOE 6)

18  
19 Upon filing the complaint herein, plaintiff being ignorant of the true name of a defendant  
20 and having designated said defendant in the complaint by a fictitious name, to wit: DOE 6, and  
21 having discovered the true name of said defendant to be HARRIS AND DIAL, P.C., hereby amends  
22 his complaint by inserting such true name in the place and stead of such fictitious name wherever it  
23 appears in said complaint.

24 Dated: July 20, 2007

25   
26 Stephen A. Cain  
27 Attorney for Plaintiff  
28 ROBERT MICHAEL SIEMONS

FILED BY FAX  
ALAMEDA COUNTY  
December 16, 2004  
CLERK OF  
THE SUPERIOR COURT  
By Rosanne Case, Deputy  
CASE NUMBER:  
VG04172155

Stephen A. Cain, SB#111049  
Attorney at Law  
1101 Standiford Avenue, Suite A-7  
Modesto CA 95350  
Telephone: (209) 567-1300

Attorney for Plaintiff  
ROBERT MICHAEL SIEMONS

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ALAMEDA

ROBERT MICHAEL SIEMONS,

Plaintiff,

vs.

FIRST U.S.A. BANK, N.A.,  
S & A SERVICES OF MARION, LTD,  
TRIAD, WILLIAM D. KWIA TEK, JASON  
MAPLES, RANDALL NEIN, and DOES 1-100,  
inclusive,

Defendants.

Case No.: VG04172155

AMENDMENT TO COMPLAINT  
CCP Section 474 (DOE 1)

Upon filing the complaint herein, plaintiff being ignorant of the true name of a defendant and having designated said defendant in the complaint by a fictitious name, to wit: DOE 1, and having discovered the true name of said defendant to be JEFFREY SCHREIBER, hereby amend his complaint by inserting such true name in the place and stead of such fictitious name wherever it appears in said complaint.

Dated: December 15, 2004



Stephen A. Cain  
Attorney for Plaintiff  
ROBERT MICHAEL SIEMONS

**FILED BY FAX**  
**ALAMEDA COUNTY**

**December 16, 2004**

**CLERK OF**  
**THE SUPERIOR COURT**  
**By Rosanne Case, Deputy**

**CASE NUMBER:**  
**VG04172155**

Stephen A. Cain, SB#111049  
Attorney at Law  
1101 Standiford Avenue, Suite A-7  
Modesto CA 95350  
Telephone: (209) 567-1300

Attorney for Plaintiff  
ROBERT MICHAEL SIEMONS

**SUPERIOR COURT OF CALIFORNIA**  
**COUNTY OF ALAMEDA**

ROBERT MICHAEL SIEMONS,

Plaintiff,

vs.

FIRST U.S.A. BANK, N.A.,  
S & A SERVICES OF MARION, LTD,  
TRIAD, WILLIAM D. KWIATEK, JASON  
MAPLES, RANDALL NEIN, and DOES 1-100,  
inclusive,

Defendants.

Case No.: VG04172155

AMENDMENT TO COMPLAINT  
CCP Section 474 (DOE 3)

Upon filing the complaint herein, plaintiff being ignorant of the true name of a defendant and having designated said defendant in the complaint by a fictitious name, to wit: DOE 3, and having discovered the true name of said defendant to be JEFFREY SCHREIBER, d.b.a. S & A SERVICES OF MARION, LTD, hereby amends his complaint by inserting such true name in the place and stead of such fictitious name wherever it appears in said complaint.

Dated: December 15, 2004

  
Stephen A. Cain  
Attorney for Plaintiff  
ROBERT MICHAEL SIEMONS



**FILED BY FAX  
ALAMEDA COUNTY****December 16, 2004****CLERK OF  
THE SUPERIOR COURT  
By Rosanne Case, Deputy****CASE NUMBER:  
VG04172155**

1 Stephen A. Cain, SB#111049  
2 Attorney at Law  
3 1101 Standiford Avenue, Suite A-7  
4 Modesto CA 95350  
5 Telephone: (209) 567-1300

6  
7  
8 Attorney for Plaintiff  
9 ROBERT MICHAEL SIEMONS

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**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ALAMEDA**

ROBERT MICHAEL SIEMONS,

Plaintiff,

vs.

FIRST U.S.A. BANK, N.A.,  
S & A SERVICES OF MARION, LTD,  
TRIAD, WILLIAM D. KWIATEK, JASON  
MAPLES, RANDALL NEIN, and DOES 1-100,  
inclusive,

Defendants.

Case No.: VG04172155

AMENDMENT TO COMPLAINT  
CCP Section 474 (DOE 4)

Upon filing the complaint herein, plaintiff being ignorant of the true name of a defendant and having designated said defendant in the complaint by a fictitious name, to wit: DOE 4, and having discovered the true name of said defendant to be SUZANNE SCHREIBER, d.b.a. S & A SERVICES OF MARION, LTD, hereby amends his complaint by inserting such true name in the place and stead of such fictitious name wherever it appears in said complaint.

Dated: December 15, 2004

  
Stephen A. Cain  
Attorney for Plaintiff  
ROBERT MICHAEL SIEMONS

# **EXHIBIT B**

ENDORSED  
FILED  
ALAMEDA COUNTY

07 JUL -3 PM 3:15

CLERK OF THE SUPERIOR COURT  
BY BARBARA C. YOUNG DEPUTY

MICHAEL R. SIMMONDS (SBN 96238)  
TOMIO B. NARITA (SBN 156576)  
SIMMONDS & NARITA LLP  
44 Montgomery Street, Suite 3010  
San Francisco, CA 94104-4816  
Telephone: (415) 283-1000  
Facsimile: (415) 352-2625  
msimmonds@snllp.com  
tnarita@snllp.com

Attorneys for Defendants  
JEFFREY SCHREIBER and SUZANNE SCHREIBER

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA, UNLIMITED CIVIL JURISDICTION

ROBERT MICHAEL SIEMONS,

Plaintiff,

vs.

FIRST U.S.A. BANK, N.A.,  
S&A SERVICES OF MARION, LTD.,  
TRIAD,  
WILLIAM D. KWIA TEK,  
JASON MAPLES,  
RANDALL NEIN,  
JEFFREY SCHREIBER,  
SUZANNE SCHREIBER,  
and Does 5-100, inclusive,

Defendants.

CASE NO. VG04172155

**DECLARATION OF JEFFREY  
SCHREIBER IN SUPPORT OF MOTION  
FOR SUMMARY JUDGMENT OR  
SUMMARY ADJUDICATION**

Date: September 26, 2007  
Time: 9:00 a.m.  
Department: 31  
Res. No.: 729129

Hon. Frank Roesch

Complaint Filed: August 25, 2004  
Trial Date: November 2, 2007

**BY FAX**

I, Jeffrey Schreiber, declare:

1. I am one of the named defendants in this action. I have personal knowledge as to the matters stated herein and am competent to testify thereto.

2. I reside in Indiana. I was married to defendant Suzanne Schreiber for more than nineteen years. We were recently divorced.

3. I am an attorney licensed to practice law in the states of Indiana, Massachusetts, New York, New Hampshire and the District of Columbia. At all times

1 relevant to the facts of this case, I was a shareholder of Schreiber & Associates, P.C., a  
2 professional corporation organized under the laws of the State of Massachusetts.

3 4. I own fifty percent of the shares of Consolidation U.S.A., Inc., a  
4 Massachusetts corporation. My former wife, Suzanne Schreiber, owns the other fifty  
5 percent.

6 5. In 2001, S&A Services of Marion, Ltd., a corporation incorporated under the  
7 laws of the State of Indiana ("S&A Marion"), was formed. Two-thirds of the shares of S&A  
8 Marion were owned by Consolidation U.S.A., Inc. The remaining one-third of the shares of  
9 S&A Marion were owned by a different corporation, Consolidation U.S.A. II, Inc., in which  
10 I have no ownership interest, either direct or indirect.

11 6. S&A Marion operated a "call center" in Marion, Indiana. It was not profitable.  
12 It ceased doing business in 2003, and it was formally dissolved in 2005.

13 7. I was never an officer or an employee of S&A Marion. I had no management  
14 responsibilities with respect to S&A Marion.

15 8. Prior to the filing of this lawsuit, I had never heard of the plaintiff, Robert  
16 Michael Siemons, or any of the issues he has raised in this lawsuit relating to his account.

17 9. S&A Marion furnished consumer information to certain consumer reporting  
18 agencies utilizing the same procedure and personnel employed by Schreiber & Associates,  
19 P.C. Up-to-date information was downloaded from S&A Marion's server each month to a  
20 tape, and the information on the tape was then provided to the consumer reporting agencies.

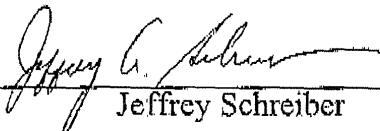
21 10. S&A Marion followed the same procedure as Schreiber & Associates for  
22 investigating and reporting information concerning consumer disputes. Whenever a  
23 complaint was received, either directly from the consumer or from a consumer reporting  
24 agency, the procedure was to update the account so that it would be reported as "disputed"  
25 on future reports to the consumer reporting agencies. In addition, S&A had a policy of  
26 investigating each consumer dispute and, upon conclusion of the investigation, any  
27 appropriate adjustments would be made to the account data in order to ensure that the  
28

1 information furnished to the consumer reporting agencies was accurate. It was my  
2 understanding and my expectation that these procedures were being utilized for all accounts.

3 11. I have never furnished information about Robert Michael Siemons, or any  
4 other consumer, to any consumer reporting agency.

5 12. Prior to the filing of this lawsuit, I was not aware that S&A Marion was  
6 publishing information to consumer reporting agencies about Robert Michael Siemons, or  
7 that he disputed the accuracy of information about him that had been furnished by S&A to  
8 consumer reporting agencies.

9 I declare under penalty of perjury under the laws of the State of California that the  
10 foregoing is true and correct. Executed this 28 day of June, 2007, at Marion,  
11 Indiana.

12  
13   
14 Jeffrey Schreiber  
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28

# **EXHIBIT C**

ENDORSED  
FILED  
ALAMEDA COUNTY

07 JUL -3 PM 3:15

CLERK OF THE SUPERIOR COURT  
BY BARBARA C. YOUNG, DEPUTY

MICHAEL R. SIMMONDS (SBN 96238)  
TOMIO B. NARITA (SBN 156576)  
SIMMONDS & NARITA LLP  
44 Montgomery Street, Suite 3010  
San Francisco, CA 94104-4816  
Telephone: (415) 283-1000  
Facsimile: (415) 352-2625  
msimmonds@snllp.com  
tnarita@snllp.com

Attorneys for Defendants  
JEFFREY SCHREIBER and SUZANNE SCHREIBER

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA, UNLIMITED CIVIL JURISDICTION

ROBERT MICHAEL SIEMONS,

Plaintiff,

vs.

FIRST U.S.A. BANK, N.A.,  
S&A SERVICES OF MARION, LTD.,  
TRIAD,  
WILLIAM D. KWIA TEK,  
JASON MAPLES,  
RANDALL NEIN,  
JEFFREY SCHREIBER,  
SUZANNE SCHREIBER,  
and Does 5-100, inclusive,

Defendants.

CASE NO. VG04172155

**DECLARATION OF SUZANNE  
SCHREIBER IN SUPPORT OF MOTION  
FOR SUMMARY JUDGMENT OR  
SUMMARY ADJUDICATION**

Date: September 26, 2007

Time: 9:00 a.m.

Department: 31

Res. No.: 729129

Hon. Frank Roesch

Complaint Filed: August 25, 2004

Trial Date: November 2, 2007

**BY FAX**

I, Suzanne Schreiber, declare:

1. I am one of the named defendants in this action. I have personal knowledge as to the matters stated herein and am competent to testify thereto.

2. I reside in Massachusetts and have been a resident of Massachusetts at all times relevant to this action. I was married to defendant Jeffrey Schreiber for more than nineteen years. We were recently divorced.



1           3.     I own fifty percent of the shares of Consolidation U.S.A., Inc., a Massachusetts  
2 corporation. My former husband, Jeffrey Schreiber, owns the other fifty percent.

3           4.     In 2001, I participated in the formation of S&A Services of Marion, Ltd., a  
4 corporation incorporated under the laws of the State of Indiana ("S&A Marion"). Two-thirds  
5 of the shares of S&A Marion were owned by Consolidation U.S.A., Inc. The remaining one-  
6 third of the shares were owned by a different corporation, Consolidation U.S.A. II, Inc., in  
7 which I have no ownership interest, either direct or indirect.

8           5.     S&A Marion operated a "call center" in Marion, Indiana. It employed up to  
9 seventy persons while in business. It was not profitable, however, and ceased doing business  
10 in 2003. S&A Marion was formally dissolved in 2005. At all times, I served as the  
11 President of S&A Marion.

12          6.     The day-to-day operations of S&A Marion were managed by a general  
13 manager who was on-site in Marion, Indiana. The general manager oversaw six to seven  
14 supervisors, each of whom in turn supervised approximately ten to twelve telephone  
15 representatives. All of the foregoing – the general manager, the supervisors, and the  
16 telephone representatives of S&A Marion – received training prior to telephoning debtors.  
17 S&A Marion did not own the debts it was attempting to collect. It was retained by other  
18 entities that actually owned the debts, such as companies that purchased large portfolios of  
19 delinquent accounts from brokers or credit card banks. The training that these employees of  
20 S&A Marion received included two weeks of classes and testing regarding the requirements  
21 of the Fair Debt Collection Practices Act and related legal requirements. In addition, each  
22 telephone representative received supervised on-the-job training in which a designated  
23 supervisor would monitor calls to ensure that the telephone calls to debtors were being  
24 handled in accordance with S&A Marion's written policies and procedures.

25          7.     I did not manage day-to-day operations of S&A Marion. As President, I  
26 oversaw the "back office" operations – receipt and booking of sums received from debtors,  
27 management of account payables, and funding of payroll – at my office in Massachusetts.  
28 Most of this work was actually done by employees whom S&A shared with Schreiber &

1 Associates, P.C., a law firm in which my former husband, Jeffrey Schreiber, was a  
2 shareholder.

3 8. S&A Marion furnished information regarding the debtors' accounts to  
4 consumer reporting agencies. Current information regarding those accounts, which resided  
5 on S&A Marion's server in Marion, Indiana, was downloaded each month to tape and then  
6 provided to the consumer reporting agencies as directed. I did not participate in any aspect  
7 of this monthly reporting process. The policies and procedures of S&A Marion were  
8 designed and intended to communicate accurate information to the consumer reporting  
9 agencies. It was my understanding and expectation that these procedures were being utilized  
10 for all accounts.

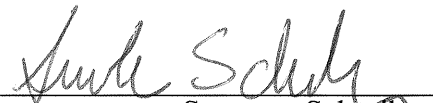
11 9. As President of S&A Marion, I had no contact with debtors at any time.

12 10. Prior to the filing of this lawsuit, I had never heard of the plaintiff, Robert  
13 Michael Siemons, or any of the issues he has raised in this lawsuit relating to his account.

14 11. I have never furnished information about Robert Michael Siemons, or any  
15 other consumer, to any consumer reporting agency.

16 12. Prior to the filing of this lawsuit, I was not aware that S&A Marion was  
17 publishing information to consumer reporting agencies about Robert Michael Siemons, or  
18 that he disputed the accuracy of information about him that had been furnished by S&A to  
19 consumer reporting agencies.

20  
21 I declare under penalty of perjury under the laws of the State of California that the  
22 foregoing is true and correct. Executed this 2 day of July, 2007, at  
23 Andover, Massachusetts.

24  
25  
26   
27 Suzanne Schreiber  
28

# **EXHIBIT D**

FILED BY FAX

ALAMEDA COUNTY

September 12, 2007

CLERK OF  
THE SUPERIOR COURT  
By Rosanne Case, Deputy

CASE NUMBER:

VG04172155

1 Stephen A. Cain, SB#111049  
2 Attorney at Law  
3 1101 Standiford Avenue, Suite D-2  
4 Modesto CA 95350  
5 Telephone: (209) 567-1300

6 Attorney for Plaintiff  
7 ROBERT MICHAEL SIEMONS

8 SUPERIOR COURT OF CALIFORNIA  
9 COUNTY OF ALAMEDA

10 ROBERT MICHAEL SIEMONS,

11 Plaintiff,

12 vs.

13 FIRST U.S.A. BANK, N.A.,  
14 S & A SERVICES OF MARION, LTD,  
15 TRIAD, WILLIAM D. KWIA TEK, JASON  
16 MAPLES, RANDALL NEIN, and DOES 1-100,  
17 inclusive,

18 Defendants.

) Case No.: VG04172155

) MEMORANDUM IN OPPOSITION TO  
) MOTION FOR SUMMARY JUDGMENT  
) CCP § 437 c

) DATE: September 26, 2007

) TIME: 9:00 a.m.

) LOCATION: Dept. 31

) Res. No. 739928

) Ho. Frank Roesch

) ACTION FILED: Aug. 25, 2004

) TRIAL DATE: November 2, 2007

19  
20 Comes now Plaintiff, ROBERT MICHAEL SIEMONS, opposing the Motion for Summary  
21 Judgment pursuant to CCP § 437c, as follows:

22 I.

23 The Entire Premise for This Motion is Erroneous

24 The premise of this motion is that a defendant who is not personally familiar with the  
25 injured plaintiff cannot be responsible for his injuries. This is not the law. The recent pleadings filed  
26 both in this Court and in Federal Court evidence a pattern of misstating the law and then urging the  
27 Court to adopt an erroneous principle in making its ruling.

28 Torts is a first year course in law school. In Torts class, the professors taught that liability is

Opposition to Motion for

- 1 -

Summary Judgment CCP § 437c

1 premised upon the issue of duty as defined by the foreseeability of injury. The owners of a  
 2 collection company who do not properly train the collectors and who devise and implement  
 3 inadequate systems cannot escape liability because they do not personally know the alleged debtors  
 4 who are harassed and victimized by illegal collection tactics. The law is just the opposite. The  
 5 owners have a duty to properly train and supervise collectors so that the collectors do not break the  
 6 law, and to devise and implement systems that make sure that the law is followed. It is foreseeable  
 7 that the breach of these duties will result in the injury and damage to alleged debtors. This motion is  
 8 nothing but a re-packaging of the same arguments that are contained in the other pleading that the  
 9 defendants have filed in their frenetic attempts to avoid a jury trial.

10 This motion is also doomed to failure because the premise, that a defendant who is not  
 11 personally familiar with the injured plaintiff cannot be responsible for his injuries, is not the law in  
 12 the State of California. It is the exercise of control over the policies that permitted the misconduct  
 13 that gives rise to liability. The civil case of *People v. Dollar Rent-A-Car Systems, Inc.* (1989) 211  
 14 CA 3d 119 is instructive. The Court held the majority shareholder personally liable for the  
 15 deceptive sales of Collision Damage Waiver Coverage as “insurance” even though he had never had  
 16 any contact with the defrauded purchasers. “If a corporate officer or director were not liable for his  
 17 or her own tortious conduct, he or she ‘could inflict injuries upon others and then escape liability  
 18 behind the shield of his or her representative character, even though the corporation might be  
 19 insolvent or irresponsible.’ ( *Frances T., supra*, 42 Cal.3d at p. 505,...) *PMC, Inc. v. Kadisha* (2000)  
 20 78 CA4th 1368, 1381. This, in a nutshell, was the defendant’s game plan. Within weeks of being  
 21 served, the Schreibers voted to dissolve S & A Services of Marion, Ltd. See, **Exhibit # 7** to  
 22 declaration of Stephen A. Cain.

23 The evidentiary premise of the motion is also erroneous in that the defendants are arguing  
 24 that because plaintiff cannot disprove the claimed defense, the plaintiff should not be allowed to  
 25 have his day in court. It has been specifically held that a defendant cannot base its “showing” on  
 26 plaintiff’s lack of evidence to disprove its claimed defense. *Consumer Cause, Inc. v. SmileCare*  
 27 (2001) 91 CA4th at 472; Weil & Brown, *Cal. Practice Guide Civil Procedure Before Trial*, (The  
 28 Rutter Group 2007) ¶10:247. Here the defendants are claiming that their lack of personal knowledge

1 is a defense and urging the Court to dismiss the case because plaintiff cannot prove personal  
2 knowledge. The defendants are wrong on both counts.

## 3 II.

### 4 MOVING PARTY'S BURDEN

5 Thus, 'from commencement to conclusion, the party moving for summary judgment bears  
6 the burden of *persuasion* that there is no triable issue of material fact and that it is *entitled to*  
7 *judgment* as a matter of law.' *Aguilar v. Atlantic Richfield Co.*, (2001) 25 CA4th 826, 850. Further,  
8 it is the moving party's burden to support every "Undisputed Fact" by evidence establishing the  
9 moving party's right to the relief sought. *Regents of the Univ. of Calif. V. Sup. Ct. (Roettgen)* (1996)  
10 41 CA4th 1040. The showing must be *prima facie*; "...one that is sufficient to support the position  
11 of the party in question. 'No more is called for.'" *Aguilar v. Atlantic Richfield Co.*, *supra* at 850. The  
12 burden is such that, "There is no obligation on the opposing party ... to establish anything by  
13 affidavit unless and until the moving party has by affidavit stated facts establishing *every element* ...  
14 necessary to sustain a judgment in his favor." *Consumer Cause, Inc. v. SmileCare* (2001) 91 CA4th  
15 454, 468. The defendant must prove that it is entitled to judgment with respect to all theories of  
16 liability asserted by the plaintiff. *Lopez v. Sup. Ct. (Friedman Bros. Inv. Co.)* (1996) 45CA4th 705,  
17 717.

18 Besides being legally erroneous, the evidence presented by the defendants is immaterial.  
19 The pleadings determine what issues are material in a summary judgment motion. Therefore, the  
20 moving party's evidence must be directed to the claims or defenses raised in the pleadings. *Keniston*  
21 *v. American Nat'l Ins. Co.* (1973) 31 CA3d 803. The moving party must show that the undisputed  
22 facts, when applied to the issues framed by the pleadings, entitle the moving party to judgment.  
23 *Juge v. County of Sacramento* (1993) 12 CA4th 59, 66. Whether the plaintiff has evidence that the  
24 Schreibers did or did not know of his existence or that he had been harassed the collectors lends  
25 nothing to this motion. The fact that Mr. Siemons does not controvert the defendant's claimed  
26 ignorance of his existence does not necessarily show the claim "cannot be established" where those  
27 facts are not likely to have been known to plaintiff. *Villa v. McFerren* (1995) 35 CA4th 733, 749. In  
28 the *Villa* case, the plaintiff admitted that he was personally unaware of any significant



1 communication between the named defendants. This did not “show” that plaintiff’s cause of action  
 2 “cannot be established” because there was no reason to suppose that plaintiff would have been  
 3 present to observe such communications. Such evidence was not sufficient to shift the burden of  
 4 proof to plaintiff to prove a triable issue existed as to the conspiracy allegations. *Villa v. McFerren*,  
 5 supra, 35 CA4th at 749. The defendants want to utilize their alleged ignorance to shift the burden to  
 6 the plaintiff to produce evidence on the defendant’s failure to implement the training, oversight, and  
 7 dispute resolution procedures necessary to prevent the collectors from breaking the law. Neither law  
 8 or logic connect the two sufficiently to give rise to a motion for summary judgment.

### 9 III.

#### 10 OPPOSING PARTY’S BURDEN

11 CCP § 437c (c), provides summary judgment can be granted only if there is **NO** triable  
 12 issue of any material fact. The plaintiff needs prove nothing if the defendant fails in its  
 13 burden. If the defendant succeeds, the burden shifts to the opposing party to produce *admissible*  
 14 *evidence* showing a triable issue of fact exists. Plaintiff must produce specific facts showing a  
 15 triable, material controversy as to whatever element of the cause of action that the defendant claims  
 16 cannot be established. *FSR Brokerage, Inc. v. Sup. Ct. (Blanco)* (1995) 35 CA4th 69, 73-74.

17 In meeting its burden the plaintiff has three legal advantages. The statute, **CCP § 437c (c)**,  
 18 directs the court to consider “...and all inferences reasonably deducible from the evidence, except  
 19 summary judgment may not be granted by the court based on inferences reasonably deducible from  
 20 the evidence, if contradicted by other inferences or evidence, which raise a triable issue as to any  
 21 material fact.” Thus the court must (1) indulge all inferences deducible from the plaintiff’s evidence  
 22 and (2) deny summary judgment if the inferences urged by the defendant are contradicted by  
 23 inferences raise by plaintiff’s evidence. *Aguilar v. Atlantic Richfield Co.*, supra at 843. Thirdly, the  
 24 moving party's declarations and evidence will be strictly construed in determining whether they  
 25 negate (disprove) an essential element of plaintiff's claim “in order to avoid unjustly depriving the  
 26 plaintiff of a trial.” *Brantley v. Pisaro* (1996) 42 CA4th1591,1601; *Molko v. Holy Spirit Ass'n*  
 27 (1988) 46 C3d 1092, 1107.

28 When considering the inferences from the evidence, the Court is certainly aware that



nowhere do the defendants controvert the factual basis for the plaintiff's claim. They do not deny that plaintiff was called over 70 times (**Exhibit #3**; Decl. of Stephen A. Cain), that the collectors refused to change the information in the file, erroneous and damaging credit information was published to major credit collection organizations (**Exhibit #2**; Decl. of Stephen A. Cain), or that he and his family were humiliated and forced to change their life style. Uncontroverted, the Court must infer that everything the plaintiff alleges is true. The only issue is whether the Schreibers, as the owners, "top bosses", and creators of these companies are responsible. A strict construction of the evidence of the Schreiber's alleged ignorance, only allows the Court to infer that the Schreibers did not have an adequate system to allow them to stop illegal activities by the collectors. The validity of this inference is confirmed by the settlement with the Attorney General for Massachusetts. There were 7 agreed changes in the procedures, Jeffrey Schreiber agreed to be personally bound to make the changes, and a fine of \$100,000 was paid (Settlement w/ Mass. A.G., **Exhibit #8** to Decl. of Stephen A. Cain). Had a proper system of training and oversight been in effect in 2003, it would have prevented the plaintiff and his family from the undisputed injuries that the suffered.

#### IV.

##### **Jeffrey Schreiber Devised, Implemented and Enforced the Inadequate System**

Subsequent to this motion being filed, Jeffrey Schreiber's deposition was held. In the course of his deposition Mr. Schreiber admitted that of his own personal knowledge that IT people at Schreiber and Associates would load the information from tapes collected from the Marion server and the information was relayed to consumer credit reporting agencies. He was the one who gave the instruction that this procedure was to be followed (Depo. Jeffrey Schreiber, 105:6-108:11, **Exhibit #1** to Decl. of Stephen A. Cain). The procedures investigating and reporting information concerning consumer disputes used at Marion were the same as used by Schreiber and Associates because Jeffrey Schreiber instructed them on the procedure (Depo. Jeffrey Schreiber, 108:12-110:24, **Exhibit #1** to Decl. of Stephen A. Cain). As the sole owner of the law office of Schreiber and Associates, Jeffrey Schreiber made it clear that he wanted certain procedures followed and that his instructions were to be followed (Depo. Jeffrey Schreiber, 109:12-24, **Exhibit #1** to Decl. of Stephen A. Cain). Jeffrey Schreiber directed that whenever a complaint was received either directly

1 from a consumer or from a consumer reporting agency, the procedure was to update the account so  
 2 that it would be reported as "disputed" on future reports to consumer reporting agencies. Jeffrey  
 3 Schreiber personally gave these instructions to Schreiber and Associates employees and the  
 4 employees in Marion were instructed to follow the same procedures (Depo. Jeffrey Schreiber,  
 5 110:1-24, **Exhibit #1** to Decl. of Stephen A. Cain). S & A also had a policy of investigating each  
 6 consumer dispute and, upon conclusion of the investigation, any appropriate adjustments would be  
 7 made to the account data in order to ensure that the information furnished to the consumer reporting  
 8 agencies was accurate, which was the direct result of Jeffrey Schreiber's instructions (Depo. Jeffrey  
 9 Schreiber, 110:24-111:24, **Exhibit #1** to Decl. of Stephen A. Cain). However, as he sat in his office  
 10 at S & A Services, Ltd. in Marion, the disputed Siemons debt was not investigated (Depo. Jayson  
 11 Maples, 139:14-17, **Exhibit #9** to Decl. of Stephen A. Cain).

## V.

### Schreibers Admitted That Procedures Were Inadequate

14 The goal of these instructions was to have S & A of Marion, Indiana, functioning exactly as  
 15 Schreiber and Associates, of Danvers, Massachusetts. However, as the investigation by the  
 16 Massachusetts Attorney General concluded, AND THE DEFENDANTS ADMITTED, the  
 17 procedures were inadequate to ensure compliance with Federal and State law. In 2004 Jeffrey  
 18 Schreiber took personal responsibility for attempted collection of a debt not owed by one consumer  
 19 and agreed to be personally bound by the agreement to implement improvements. He basically  
 20 admitted that the procedures were inadequate to prevent the abuse in the instant case, and he would  
 21 personally oversee the needed improvements. He agreed to (1) designate a debt collection  
 22 supervisor to ensure compliance with state and federal law, (2) provide enhanced training to the  
 23 debt collectors, (3) immediately notify consumers if Schreiber learns that a debt has been paid, is  
 24 not the consumer's obligation, or is otherwise illegitimate, (4) record all telephone conversations  
 25 with consumers, (5) maintain records of all debt collection activities, (6) designate a mediation  
 26 supervisor and implement procedures to mediate disputes, and (7) record and confirm in writing  
 27 oral payment authorizations from consumers (Settlement w/ Mass. A.G., **Exhibit #8** to Decl. of  
 28 Stephen A. Cain). Jeffrey Schreiber admits to appointing two debt collection supervisors to ensure

1 compliance with state and federal law. One supervisor is William Harris, a 5% shareholder in Harris  
 2 and Dial, P.C., which is the successor to Schreiber and Associates. Jeffrey Schreiber owns 90% of  
 3 Harris and Dial, and Dial owns the remaining 5% (Depo. Jeffrey Schreiber, 31:8-16, **Exhibit #1** to  
 4 Decl. of Stephen A. Cain). Whether the other improvements to the collection procedures were  
 5 actually carried out could not be ascertained at Mr. Schreibers deposition due to counsel instructing  
 6 Jeffrey Schreiber not to answer (Depo. Jeffrey Schreiber, 116:15-124:14, **Exhibit #1** to Decl. of  
 7 Stephen A. Cain).

## 8 VI.

### 9 Suzanne Schreiber Exerted Detailed, Daily Supervision

10 Contrary to her self portrayal as the wife who was just following her husbands lead, Suzanne  
 11 Schreiber was fully involved in the creation of the collection business. Not only was she the CEO of  
 12 every collection location (Depo. Suzanne Schreiber, 20:15-24, 22:4-14, 27:20-28:6, **Exhibit #6** to  
 13 Decl. of Stephen A. Cain), it was she who had a background in collections (Depo. Jeffrey Schreiber,  
 14 27:21-28:2, **Exhibit #1** to Decl. of Stephen A. Cain), conceived of the diversification into other  
 15 geographic areas (Depo. Jeffrey Schreiber, 16:8-23; 89:14-16, **Exhibit #1** to Decl. of Stephen A.  
 16 Cain), thought to use the common initials of "S & A" to be used (Depo. Jeffrey Schreiber, 111:25-  
 17 112:15, **Exhibit #1** to Decl. of Stephen A. Cain), signed the leases (Depo. Jeffrey Schreiber, 37:4-  
 18 8, 88:7-9, **Exhibit #1** to Decl. of Stephen A. Cain), and from her office in Massachusetts made daily  
 19 and covered "...every operational issue or functionality required from IT issues to the amount of  
 20 collections, who the inventory, to – whatever issues any collection agency would face on a day-to-  
 21 day basis required the CEO to address, that is what she addressed" (Depo. Jeffrey Schreiber, 67:7-  
 22 19, **Exhibit #1** to Decl. of Stephen A. Cain).

## 23 VII.

### 24 The "Top Bosses"

25 In the deposition of Jayson Maples, the supervisor who was ultimately involved in the  
 26 collection activity directed at plaintiff for the debt that he did not owe, the question of authority in  
 27 the company was asked. Mr. Maples made it clear that in his mind Jeffrey Schreiber and Suzanne  
 28 Schreiber were the top bosses (Depo. Jayson Maples, 76:11-20, 155:13-19, 156:1-2, **Exhibit #9** to

Decl. of Stephen A. Cain). Jeffrey had his office located in the same facility as S & A of Marion. Allegedly, because Jeffrey Schreiber was the General Counsel for all of the collection entities, if his law practice did not pay the rent, S & A would pay for him (Depo. Jeffrey Schreiber, 38:18-39:6, **Exhibit #1** to Decl. of Stephen A. Cain). The landlord actually entered into the lease with the Schreibers while they were operating under the name of 702 South Adams, LLC (Depo. Jeffrey Schreiber, 38:18-39:6, **Exhibit #1** to Decl. of Stephen A. Cain). So their direct supervision covered every aspect of the operation from the ground up.

### VIII.

#### The Schreibers Were Doing Business As S & A Services of Marion, Ltd.

The defense seems to ascribe some special meaning to the acronym, DBA. In California, where S & A Services of Marion, Ltd. is still listed as an active corporation, the phrase “doing business as” is not a term of art. It merely described a person who was doing business under some other name. *Meller & Snyder v. R & T Properties, Inc.* (1998) 62 Cal.App.4th 1303, 1311; *Pinkerton's, Inc. v. Superior Court* (1996) 49 Cal.App.4th 1342, 348; *Billings v. Edwards* (1979) 91 Cal.App.3d 826, 830-831 & fn. 1. In 2003 the Schreibers were engaged in operating 3 debt collection locations, one of which was S & A Services of Marion, Ltd. (Depo. Suzanne Schreiber, 20:15-24, 22:4-14, 27:20-28:6, **Exhibit #6** to Decl. of Stephen A. Cain). The center of the collection operations was Schreiber and Associates, P.C. (S & A?), totally owned by Jeffrey Schreiber (Depo. Suzanne Schreiber, 82:20-83:15, **Exhibit #6** to Decl. of Stephen A. Cain). However, non lawyer Suzanne Schreiber was the CEO (Depo. Suzanne Schreiber, 20:15-24, **Exhibit #6** to Decl. of Stephen A. Cain)! Jeffrey Schreiber personally devised and implemented the procedures that the collectors were to follow (Depo. Jeffrey Schreiber, 105:6-110:24, **Exhibit #1** to Decl. of Stephen A. Cain).. Because he was the owner he expected that the procedures would be followed. Suzanne Schreiber, from the main office made daily decisions on all issues that a CEO would decide (Depo. Jeffrey Schreiber, 67:7-19, **Exhibit #1** to Decl. of Stephen A. Cain). Jeffrey had set up a law office in the same location as S & A Services of Marion, Ltd. They created another “paper” corporation to be the leaseholder, so Jeffrey Schreiber was not required to pay the rent (Depo. Jeffrey Schreiber, 36:19-37:21, 38:18-39:6, **Exhibit #1** to Decl. of Stephen A. Cain). When this lawsuit was filed the

Schreibers closed up the operation, liquidated the assets and paid themselves (Depo. Jeffrey Schreiber, 44:7-45:4, **Exhibit #1** to Decl. of Stephen A. Cain; Dissolution documents, **Exhibit #7** to Decl. of Stephen A. Cain).

There is no doubt that the Schreibers were doing business as S & A Services of Marion, Ltd., S & A Services of Watertown, Ltd., and Schreiber and Associates, P.C. Logic compels the inference the creation of uncapitalized, “paper” entities, and using only the initials of the main profit center and headquarters was an attempt to hide their identity and insulate them from potential liability. Proof of the frivolous attitude of the Schreibers about their “paper” corporations is the fact that S & A Services of Marion, Ltd. is still shown as a viable corporation in California. (See, **Exhibit #5** to Decl. of Stephen A. Cain). They were either the only shareholders or controlling shareholders of each corporation that they formed, giving them the same absolute control as partners or sole proprietors. A strong indication that the Schreibers were in their own minds personally responsible for every aspect of the business was Jeffrey Schreiber’s decision to be personally bound by the agreement that they made with the Massachusetts Attorney General to settle the investigation of their illegal practices (Settlement w/ Mass. A.G., **Exhibit #8** to Decl. of Stephen A. Cain). Defense counsel’s instruction to Mr. Schreiber not to questions regarding the agreement Mr. Schreiber made with the Massachusetts Attorney General is the subject of a motion to compel and request for monetary sanctions against defense attorney Tomio Narita, Esq. and the defendant JEFFREY SCHREIBER.

## X.

### Conclusion

These are wealthy, sophisticated business people who fantasized that they were so well insulated behind a veil of defunct corporations and valueless corporate shells that they could sit on their hands, claim ignorance, and thumb their noses at this trivial lawsuit in California. When faced with a case that was indefensible on the merits they just dissolved the shell corporation and shifted the collection activity new corporate shells. But, when the arbitrator properly applied California Law and held them personally liable, they launched an all out “paper” attack to use every imaginable device to avoid being scrutiny by a jury. The action filed in Federal Court was an

1 attempted "end run" around this Court which has had the case since 2004. Suzanne Schreiber  
2 required the plaintiff to file several motions to compel simple discovery responses and paid \$4,000  
3 in monetary sanctions. The Schreiber defendants refused to cooperate in the scheduling of the  
4 arbitration hearing, and therefore, it was scheduled by stipulation and court order without regard to  
5 the defendants' schedule.

6 This motion is a subterfuge to argue that since they did not personally harass and damage  
7 the plaintiff, they cannot be liable. Lack of personal contact is not a defense in California,  
8 especially when the facts are that Jeffrey Schreiber admitted that the training, supervision,  
9 oversight, practices and procedures at Schreiber and Associates were provided by him, implement  
10 by him and that her "personally" observed that his instructions were followed.

11 The moving parties have not satisfied the burden of proof required of them and this motion  
12 should be denied.

13 Dated: September 11, 2007

Respectfully submitted,



14  
15 Stephen A. Cain  
16 Attorney for Plaintiff  
17 ROBERT MICHAEL SIEMONS  
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# **EXHIBIT E**



Cain, Stephen A.  
 Attorney at Law  
 1101 Standiford Avenue, Suite D-2  
 Modesto, CA 95350-\_\_\_\_\_

Wineberg, Simmonds & Narita  
 Attn: Narita, Tomio B.  
 44 Montgomery St., Ste. 3880  
 San Francisco, CA 94104-4811

---

**Superior Court of California, County of Alameda**  
**Rene C. Davidson Alameda County Courthouse**

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Simons <div style="text-align: right;">Plaintiff/Petitioner(s)</div> <div style="text-align: center;">VS.</div> First USA Bank, N.A. <div style="text-align: right;">Defendant/Respondent(s) (Abbreviated Title)</div>	No. <u>VG04172155</u> <div style="text-align: center;">Order</div> <div style="text-align: center;">Motion for Summary Judgment/Adjudication Denied</div>
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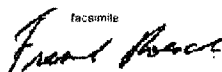
The Motion for Summary Judgment/Adjudication filed for Suzanne Schreiber and Jeffrey Schreiber was set for hearing on 09/26/2007 at 09:00 AM in Department 31 before the Honorable Frank Roesch. The Tentative Ruling was published and was contested.

The matter was argued and submitted, and good cause appearing therefore,

IT IS HEREBY ORDERED THAT:

The Motion of Defendants Jeffrey and Suzanne Schreiber for Summary Judgment is DENIED. The Court has considered all the evidence presented. The undisputed facts demonstrate that S&A Marion was a separately incorporated entity and that Defendants Jeffrey and Suzanne Schreiber were not a DBA for S&A Marion. (UMF#5 and related evidence.) There is no allegation in the complaint that Defendants Jeffrey and Suzanne Schreiber were alter egos of S&A Marion. There are triable issues of fact whether Defendants Jeffrey and Suzanne Schreiber can be held liable for the actions they took as agent directors and officer of S&A Marion. There is evidence that the Schreibers authorized, directed, or meaningfully participated in torts committed by the entity. Reynolds v. Bement (2005) 36 Cal. 4th 1075, 1189-1190; PMC, Inc. v. Kadisha (2000) 78 Cal. App. 4th 1368, 1379-1381. (UMF#2-4 and evidence in opposition thereto.) All objections by moving party and opposing party are overruled as they are not in compliance with the requirements of California Rule of Court 3.1354.

Dated: 10/03/2007

Facsimile  


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Judge Frank Roesch

SHORT TITLE: Siemons VS First USA Bank, N.A.	CASE NUMBER: VG04172155
---	----------------------------

ADDITIONAL ADDRESSEES

---

Boag, Finley J.  
4558 Second St.  
Pleasanton, CA 94566-\_\_\_\_

Superior Court of California, County of Alameda  
Rene C. Davidson Alameda County Courthouse

Case Number: VG04172155  
Order After Hearing Re: of 10/03/2007

### DECLARATION OF SERVICE BY MAIL

I certify that I am not a party to this cause and that a true and correct copy of the foregoing document was mailed first class, postage prepaid, in a sealed envelope, addressed as shown on the foregoing document or on the attached, and that the mailing of the foregoing and execution of this certificate occurred at 1225 Fallon Street, Oakland, California.

Executed on 10/04/2007.

Executive Officer / Clerk of the Superior Court

By *Debbie Daybell* <sup>digital</sup>  
Deputy Clerk

# **EXHIBIT F**

1 WALLACE C. DOOLITTLE (SBN 158116)  
2 BRADLEY D. BAYAN (SBN 218751)  
3 LAW OFFICES OF WALLACE C. DOOLITTLE  
1260 B Street, Suite 220  
Hayward, California 94541

4 TELEPHONE: (510) 888-0600  
5 FACSIMILE: (510) 888-0606  
6 EMAIL: doolittlew@doolittlelaw.com

7 Attorneys for Defendants JEFFREY SCHREIBER and SUZANNE E. SCHREIBER

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION

11 SIMMONDS & NARITA LLP, a limited  
12 liability partnership,

13 Plaintiff,

14 v.

15 JEFFREY SCHREIBER; SUZANNE E.  
16 SCHREIBER; and DOES 1 through 50,  
inclusive

17 Defendants,  
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Case No.

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CV 08 2209  
NOTICE OF REMOVAL OF ACTION  
UNDER 28 U.S.C. § 1441(b)  
(DIVERSITY)

21 TO THE CLERK OF THE ABOVE ENTITLED COURT:

22 PLEASE TAKE NOTICE that defendants JEFFREY SCHREIBER hereby removes to  
23 this Court the state court action described below.

24  
25 **Jurisdictional Statement**

26 1. The complaint for money damages filed in the State Court of California in and for  
27 the County of San Francisco, that is the basis for this Notice of Removal, involves an amount in  
28 controversy of \$88,552.99. A copy of the complaint is attached as Exhibit "A".

2. The plaintiff in this complaint for money damages, SIMMONDS & NARITA LLP, was, and now is, a California limited liability partnership, formed for the purpose of practicing law in the State of California. Michael Simmonds is one member of SIMMONDS & NARITA LLP has been an active member of the State Bar of California since 1980 and therefore defendants JEFFERY SCHREIBER and SUZANNE E. SCHREIBER are informed and believe that Michael Simmonds is domiciled in the State of California and is therefore a citizen of the State of California. Tomio Narita is the only other member of SIMMONDS & NARITA LLP has been an active member of the State Bar of California since 1991 and therefore defendants JEFFERY SCHREIBER and SUZANNE E. SCHREIBER are informed and believe that Tomio Narita is domiciled in the State of California and is therefore a citizen of the State of California. For purposes of diversity jurisdiction, because Michael Simmonds and Tomio Narita are citizens of the State of California the plaintiff SIMMONDS & NARITA LLP is treated for purposes of this lawsuit as a citizen of the State of California.

3. Defendant JEFFREY SCHREIBER is an individual, being sued in his individual capacity, whose is domiciled in the State of Indiana. Therefore JEFFREY SCHREIBER is a citizen of the State of Indiana.

4. Defendant SUZANNE E. SCHREIBER is an individual, being sued in her individual capacity, is domiciled in the State of Maryland. Therefore, SUZANNE E. SCHREIBER is a citizen of the State of Maryland.

5. Under 28 U.S.C. §1332 Diversity Jurisdiction is satisfied due to the fact that the amount in controversy is over \$75,000 and the plaintiff SIMMONDS & NARITA LLP is the citizen of a different state than defendant JEFFREY SCHREIBER defendant SUZANNE E. SCHREIBER.

### Basis for Removal

6. On March 13, 2008, a complaint for money due for attorney's fees was commenced in the Superior Court of the State of California in and for the County of San Francisco, entitled SIMMONDS & NARITA LLP, Plaintiff, vs. JEFFREY SCHREIBER,

1 SUZANNE E. SCHREIBER and DOES 1 through 50, Defendants, as Case Number CGC-08-  
2 473266. A copy of the complaint is attached hereto as Exhibit "A".

3 7. The first date upon which defendant JEFFREY SCHREIBER received a copy of  
4 said complaint was March 31, 2008, when JEFFREY SCHREIBER was served with a copy of  
5 the said complaint and the summons from the said state court. A copy of the summons is  
6 attached hereto as Exhibit "B".


7 The first day upon which defendant SUZANNE E. SCHREIBER received a copy of said  
8 complaint was April 18, 2008, when SUZANNE E. SCHREIBER was served with a copy of the  
9 said complaint and the summons from the said state court. A copy of the summons is attached  
10 hereto as Exhibit "B".

11 8. This action is a civil action of which this Court has original jurisdiction under 28  
12 U.S.C. §1332, and is one which may be removed to this Court by defendant JEFFREY  
13 SCHREIBER pursuant to the provisions of 28 U.S.C. §1441(b) in that it is a civil action between  
14 citizens of different states and the amount in controversy exceeds the sum of \$75,000, exclusive  
15 of interest and costs because, as stated in paragraphs 1 above, the amount in controversy is  
16 \$88,552.99.

17 9. Defendants JEFFERY SCHREIBER and SUZANNE E. SCHREIBER are  
18 informed and believe that plaintiff SIMMONDS & NARITA LLP was, and still is, a citizen of  
19 the State of California, by virtue of the fact that Michael Simmonds and Tomio Narita are still  
20 domiciled and therefore citizens of the State of California. Defendant JEFFREY SCHREIBER  
21 was, at the time of filing this action, and still is, a citizen of the State of Indiana. Defendant  
22 SUZANNE E. SCHREIBER was, at the time of filing this action, and still is, a citizen of the  
23 State of Maryland.



























































24 Dated: April 28, 2008





















































Respectfully Submitted  
THE LAW OFFICES OF WALACE C. DOOLITTLE























































26   
27 \_\_\_\_\_  
Bradley D. Bayan, Esq.  
Attorney for Defendants Jeffrey Schreiber  
28 And Suzanne Schreiber























































































































# **EXHIBIT G**

Date	Action	Image (Java)	Image (TIFF)
08/25/04	Complaint - Defamation Filed		
08/25/04	Civil Case Cover Sheet Filed for Robert Michael Siemons		
08/25/04	Summons on Complaint Issued		
10/25/04	Initial Case Management Conference 12/30/2004 01:30 PM D- 707		
12/07/04	Hearing Reset to Initial Case Management Conference 01/20/2005 01:30 PM D- 707		
12/16/04	Amendment to Complaint substituting True name(s) for Doe(s) Filed		
12/16/04	Amendment to Complaint substituting True name(s) for Doe(s) Filed		
12/16/04	Amendment to Complaint substituting True name(s) for Doe(s) Filed		
12/16/04	Amendment to Complaint substituting True name(s) for Doe(s) Filed		
12/17/04	Summons w/o Proof of Service Filed		
12/17/04	Proof of Service on Complaint As to First USA Bank, N.A. Filed		
12/17/04	Request Re: Entry of Default as to Party First USA Bank, N.A. Filed		
12/20/04	Request Re: Entry of Default as to Party As to First USA Bank, N.A. Entered		
01/05/05	Case Management Statement of Robert Michael Siemons Filed		
01/20/05	Case Management Conference Commenced and Continued		
01/20/05	Hearing Continued to Case Management Conf Continuance dept: 707 date: 04/21/2005 time: 10:00 AM		
02/14/05	Rejection Letter Issued on Answer to Complaint		
02/15/05	Hearing Reset to Case Management Conf Continuance 04/18/2005 10:00 AM D- 707		
02/18/05	Rejection Letter Issued on Answer to Complaint		
02/28/05	Proof of Service on Complaint As to Suzanne Schreiber, Suzanne Schreiber Filed		
02/28/05	Request Re: Entry of Default as to Party Suzanne Schreiber, Suzanne Schreiber Filed		
02/28/05	Proof of Service on Complaint As to William D. Kwiatek Filed		
02/28/05	Request Re: Entry of Default as to Party William D. Kwiatek Filed		
02/28/05	Proof of Service on Complaint As to S & A Services of Marion, LTD Filed		
02/28/05	Request Re: Entry of Default as to Party S & A Services of Marion, LTD Filed		
02/28/05	Proof of Service on Complaint As to Jeffrey Schreiber, Jeffrey Schreiber Filed		
02/28/05	Request Re: Entry of Default as to Party Jeffrey Schreiber, Jeffrey Schreiber Filed		
02/28/05	Request Re: Entry of Default as to Party As to S & A Services of Marion, LTD Entered		
02/28/05	Request Re: Entry of Default as to Party As to William D. Kwiatek Entered		
03/23/05	Request Re: Entry of Default as to Party As to Suzanne Schreiber, Suzanne Schreiber Entered		
03/24/05	Rejection Letter Issued on Answer to Complaint		























































04/05/05	Request Re: Entry of Default as to Party As to Jeffrey Schreiber, Jeffrey Schreiber Entered		
04/06/05	Case Management Statement of Robert Michael Siemons Filed		
04/06/05	Request Re: Dismissal w/o prejudice - partial as to: party Triad Filed		
04/06/05	Dismissal As to Defendant: Triad Entered		
04/18/05	Request Re: Default and Default Court Judgment As To Robert Michael Siemons, S & A Services of Mario		
04/18/05	Civil Uncontested 06/28/2005 01:30 PM D- 707		
04/18/05	Case Management Conference Commenced and Continued		
04/18/05	Hearing Continued to Case Management Conf Continuance dept: 707 date: 10/24/2005 time: 10:00 AM		
05/27/05	Motion to Vacate/Set Aside Default Reservation Set for dept: 31 date: 06/27/2005 time: 09:00 AM		
06/06/05	Hearing Reset to Motion to Vacate/Set Aside Default 06/30/2005 09:00 AM D- 31		
06/08/05	Motion to Vacate/Set Aside Filed		
06/08/05	Motion to Vacate/Set Aside Hearing Confirmed for 06/30/2005 09:00 AM D- 31		
06/16/05	Proposed Answer Filed		
06/20/05	Memorandum of Points and Authorities in Opposition to Motion Filed		
06/20/05	Proposed Order Received		
06/20/05	Rejection Letter Issued on Answer to Complaint		
06/23/05	Reply to opposition Plaintiff's motion to set aside default & judgment Filed		
06/28/05	Civil Uncontested Commenced and Completed		
06/30/05	Civil Law and Motion Hearing Commenced and Completed		
06/30/05	Motion to Vacate/Set Aside Granted		
06/30/05	Answer to Complaint Filed for Jeffrey Schreiber, Suzanne Schreiber		
07/27/05	Notice of Change of Address Filed		
08/26/05	Notice of Change of Firm Name Filed		
10/12/05	Case Management Statement of Robert Michael Siemons Filed		
10/14/05	Case Management Statement of Jeffrey Schreiber, Suzanne Schreiber Filed		
10/24/05	Case Management Conference Commenced and Continued		
10/24/05	Hearing Continued to Case Management Conf Continuance dept: 707 date: 01/30/2006 time: 10:00 AM		
01/23/06	Case Management Statement of Robert Michael Siemons Filed		
01/23/06	Request Re: Entry of Default as to Party Jason Maples Filed		
01/23/06	Proof of Service on Complaint As to Jason Maples Filed		
01/30/06	Case Management Conference Commenced and Continued		
01/30/06	Order re Case Management Filed		
01/30/06	Hearing Continued to Case Management Conf Continuance dept: 707 date: 05/01/2006 time: 09:00 AM		
01/30/06	Refer to Judicial Arbitration		

01/31/06	Notice of Proposed Arbitrators Issued		
01/31/06	Request Re: Entry of Default as to Party As to Jason Maples Entered		
02/15/06	Notice of Assignment of Arbitrator Issued		
04/20/06	Case Management Statement of Jeffrey Schreiber, Suzanne Schreiber Filed		
04/24/06	Motion to Compel (Motion) Filed for Plaintiff		
04/24/06	Motion to Compel (Motion) Hearing Confirmed for 06/01/2006 09:00 AM D- 31		
04/24/06	Motion to Compel Further Answers to Interrogatories Filed for Plaintiff		
04/24/06	Motion to Compel Further Answers to Interrogatories Hearing Confirmed for 06/01/2006 09:00 AM D- 31		
04/24/06	Motion to Compel Further Answers to Interrogatories Filed for Plaintiff		
04/24/06	Motion to Compel Further Answers to Interrogatories Hearing Confirmed for 06/01/2006 09:00 AM D- 31		
04/24/06	Motion for Further Production of Documents Filed for Plaintiff		
04/24/06	Motion for Further Production of Documents Hearing Confirmed for 06/01/2006 09:00 AM D- 31		
05/01/06	Case Management Conference Commenced and Completed		
05/01/06	Case Management Conference Order Issued		
05/01/06	Case Management Conf Continuance 07/10/2006 09:00 AM D- 707		
05/01/06	Miscellaneous Case Management Conference Order Filed		
05/26/06	Opposition Filed		
05/26/06	Opposition Filed		
05/26/06	Opposition Filed		
05/26/06	Opposition Filed		
05/30/06	Reply Brief re Motion to Compel form interrog. responses Filed		
05/30/06	Reply Brief re Motion to Compel responses to demand for Production Filed		
05/30/06	Reply Brief re Motion to Compel Responses to Requests for Admissions Filed		
05/30/06	Reply Brief re motion to compel special interrog. responses Filed		
06/01/06	Civil Law and Motion Hearing Commenced and Completed		
06/01/06	Motion to Compel (Motion) Granted		
06/01/06	Civil Law and Motion Hearing Commenced and Completed		
06/01/06	Motion to Compel Further Answers to Interrogatories Granted		
06/01/06	Civil Law and Motion Hearing Commenced and Completed		
06/01/06	Motion to Compel Further Answers to Interrogatories Granted		
06/01/06	Civil Law and Motion Hearing Commenced and Completed		
06/01/06	Motion for Further Production of Documents Granted		
06/13/06	Case Management Statement of Suzanne Schreiber, Jeffrey Schreiber Filed		































































07/06/06	Case Management Statement of Robert Michael Siemons Filed		
07/10/06	Case Management Conference Commenced and Completed		
07/10/06	Case Management Conference Order Issued		
07/10/06	Case Management Conf Continuance 10/23/2006 09:00 AM D- 707		
07/10/06	Miscellaneous Order re: Case Management Filed		
07/10/06	Refer to Judicial Arbitration		
07/12/06	Notice of Proposed Arbitrators Issued		
07/12/06	Motion for Sanctions Filed for Plaintiff		
07/12/06	Motion for Sanctions Hearing Confirmed for 08/10/2006 09:00 AM D- 31		
07/14/06	Rejection of Arbitrator Filed for Plaintiff		
07/26/06	Notice of Assignment of Arbitrator Issued		
07/27/06	Memorandum of Points and Authorities in Opposition Filed		
08/03/06	Declaration in Support Reply Brief to Opposition...(re Form Interrogatories) Filed		
08/03/06	Declaration in Support Reply Brief to Opposition...(re Special Interrogatories) Filed		
08/03/06	Reply re Motion for Sanctions Filed		
08/07/06	Recusal of Arbitrator Filed		
08/07/06	Notice of Recusal of Arbitrator Issued		
08/07/06	Notice of Assignment of Arbitrator Issued		
08/10/06	Civil Law and Motion Hearing Commenced and Completed		
08/10/06	Motion for Sanctions Granted in Part		
08/14/06	Recusal of Arbitrator Filed		
08/14/06	Notice of Recusal of Arbitrator Issued		
08/14/06	Notice of Assignment of Arbitrator Issued		
08/21/06	Recusal of Arbitrator Filed		
08/21/06	Notice of Recusal of Arbitrator Issued		
08/21/06	Notice of Assignment of Arbitrator Issued		
08/25/06	Motion for Sanctions Filed for Plaintiff		
08/25/06	Motion for Sanctions Hearing Confirmed for 09/27/2006 09:00 AM D- 31		
09/18/06	Memorandum of Points and Authorities in Opposition Filed		
09/21/06	Reply Brief of plaintiff Re Motion for Terminating Sanctions Filed		
09/25/06	Proof of Service by Mail Filed		
09/27/06	Civil Law and Motion Hearing Commenced and Completed		
09/27/06	Motion for Sanctions Taken Under Submission		
09/27/06	Motion for Sanctions Granted in Part		
09/27/06	Motion to Compel Further Answers to Interrogatories Filed for Plaintiff		
09/27/06	Motion to Compel Further Answers to Interrogatories 10/19/2006 09:00 AM D- 31		











































10/19/06	Civil Law and Motion Hearing Commenced and Completed		
10/19/06	Motion to Compel Further Answers to Interrogatories - Dropped		
10/20/06	Case Management Statement of Robert Michael Siemons Filed		
10/23/06	Case Management Conference Commenced and Continued		
10/23/06	Hearing Continued to Case Management Conf Continuance dept: 707 date: 12/11/2006 time: 09:00 AM		
12/07/06	Case Management Statement of Robert Michael Siemons Filed		
12/11/06	Case Management Conference Commenced and Completed		
12/11/06	Case Management Conference Order Issued		
12/11/06	Case Management Conf Continuance 03/05/2007 10:00 AM D- 707		
12/11/06	Order re Case Management Filed		
12/13/06	Hearing Reset to Case Management Conf Continuance 03/05/2007 10:00 AM D- 707		
03/02/07	Case Management Statement of Robert Michael Siemons Filed		
03/05/07	Case Management Statement of Robert Michael Siemons Filed		
03/05/07	Case Management Conference Commenced and Continued		
03/05/07	Hearing Continued to Case Management Conf Continuance dept: 707 date: 04/30/2007 time: 09:00 AM		
03/05/07	Case Management Conf Continuance 04/30/2007 09:00 AM D- 707		
03/21/07	Order Shortening Time Reservation Set for dept: 31 date: 03/23/2007 time: 01:30 PM		
03/22/07	Award of Arbitrator Filed		
03/22/07	Notice of Award of Arbitrator Issued		
03/23/07	Application Re: Order Shortening Time Filed for Robert Michael Siemons		
03/23/07	Application Re: Order Shortening Time Denied		
03/23/07	Motion for Discovery Filed by Robert Michael Siemons		
03/23/07	Motion for Discovery Hearing Confirmed for 04/18/2007 09:00 AM D- 31		
04/04/07	Rejection of Award/Trial De Novo Filed		
04/06/07	Declaration in Opposition to Motion Filed by Suzanne Schreiber, Jeffrey Schreiber		
04/06/07	Opposition to Motion Filed		
04/06/07	Proposed Order Received		
04/09/07	Letter dated 4/3/07 Re Minute Order for Case Management Conference on 3/5/07 Filed		
04/10/07	Case Management Statement of Robert Michael Siemons Filed		
04/11/07	Reply Brief in Response to Opposition re Motion to Conduct Financial Discovery Filed		
04/11/07	Declaration in Support Motion for Order to Conduct Financial Discovery Filed		
04/11/07	Declaration of Stephen A Cain in Support of Reply Brief Filed by Robert Michael Siemons		
04/11/07	Proposed Order Received		
04/18/07	Civil Law and Motion Hearing Commenced and Completed		







































































































04/18/07	Motion for Discovery Denied		
04/19/07	Motion to Conduct Financial Discovery Filed by Robert Michael Siemons		
04/19/07	Motion to Conduct Financial Discovery Hearing Confirmed for 05/08/2007 09:00 AM D- 31		
04/23/07	Hearing Reset to Motion to Conduct Financial Discovery 05/21/2007 09:00 AM D- 31		
04/25/07	Amended Notice of Motion and Motion for Order to Conduct Financial Discovery Filed		
04/25/07	Proof of Service on Motion		
04/30/07	Case Management Conference Commenced and Completed		
05/01/07	Case Management Conference Order Issued		
05/01/07	Master Jury Trial 11/02/2007 09:00 AM D- 511		
05/07/07	Substitution of Attorney Filed for Jeffrey Schreiber		
05/07/07	Substitution of Attorney Filed for Suzanne Schreiber		
05/08/07	Memorandum of Points and Authorities in Opposition Filed		
05/14/07	Reply Brief In Response to Opposition Filed		
05/14/07	Proof of Service Filed		
05/21/07	Civil Law and Motion Hearing Commenced and Completed		
05/21/07	Motion to Conduct Financial Discovery Denied		
07/03/07	Motion for Summary Judgment/Adjudication Filed by Jeffrey Schreiber, Suzanne Schreiber		
07/03/07	Motion for Summary Judgment/Adjudication Hearing Confirmed for 09/26/2007 09:00 AM D- 31		
07/17/07	Rejection Letter Issued on Notice of Change of Firm Address		
07/20/07	Amendment to Complaint substituting True name(s) for Doe(s) Filed		
07/20/07	Amendment to Complaint substituting True name(s) for Doe(s) Filed		
07/20/07	Amendment to Complaint substituting True name(s) for Doe(s) Filed		
08/16/07	Request Re: Dismissal with prejudice - partial as to: party William D. Kwiatek Filed		
08/27/07	Dismissal As to Defendant: William D. Kwiatek Entered		
08/28/07	Motion for Judgment on the Pleadings Filed for Defendant		
08/28/07	Motion for Judgment on the Pleadings Hearing Confirmed for 09/26/2007 09:00 AM D- 31		
08/29/07	Motion for CCP 128.7 Sanctions Filed for Defendant		
08/29/07	Motion for CCP 128.7 Sanctions Hearing Confirmed for 09/26/2007 09:00 AM D- 31		
09/10/07	Request Re: Dismissal with prejudice - partial as to: party Harris and Dial P.C. Filed		
09/11/07	Dismissal As to Defendant: Harris and Dial P.C. Entered		
09/12/07	Association of Attorneys Filed		
09/12/07	Opposition to SJ Filed		
09/12/07	Declaration of Stephen A Cain in Opposition to MSJ Filed by Robert Michael Siemons		

















































09/12/07	Separate Statement Filed for Robert Michael Siemons		
09/12/07	Objections to Evidence Filed for Robert Michael Siemons		
09/12/07	Request for Judicial Notice Filed for Robert Michael Siemons		
09/12/07	Proof of Service Filed for Robert Michael Siemons		
09/12/07	Opposition to Motion for Judgment on Pleadings Filed		
09/12/07	Declaration of Stephen A Cain in Opposition to Motion for Judgment on Pleadings Filed by Robert Mich		
09/12/07	Proof of Service Filed for Robert Michael Siemons		
09/12/07	Opposition to Motion for Sanctions Filed		
09/12/07	Declaration in Opposition Filed by Robert Michael Siemons		
09/12/07	Proof of Service Filed for Robert Michael Siemons		
09/12/07	Motion for Pro Hac Vice Filed by Jeffrey Schreiber, Suzanne Schreiber		
09/12/07	Motion for Pro Hac Vice Hearing Confirmed for 10/30/2007 09:00 AM D-31		
09/12/07	Notice of Association of William H. Harris Filed		
09/14/07	Order Shortening Time Reservation Set for dept: 31 date: 09/18/2007 time: 01:30 PM		
09/17/07	Hearing Reset to Civil Ex-Parte 09/19/2007 01:30 PM D- 31		
09/19/07	Application Re: Order Shortening Time Filed for Robert Michael Siemons		
09/19/07	Memorandum of Points and Authorities in Reply Filed		
09/19/07	Memorandum of Points and Authorities in Reply Filed		
09/19/07	Application Re: Order Shortening Time Granted		
09/20/07	Reply Re: Memorandum in Support of Motion Filed		
09/20/07	Proof of Personal Service on Complaint - Defamation As to Filed		
09/20/07	Objections of Jeffrey Schreiber, Suzanne Schreiber Filed		
09/20/07	Declaration in Support Filed		
09/20/07	Motion to Compel (Motion) Filed for Plaintiff		
09/20/07	Motion to Compel (Motion) Hearing Confirmed for 10/12/2007 09:00 AM D- 31		
09/20/07	Motion for Discovery for Order to Conduct Financial Discovery Filed by Robert Michael Siemons		
09/20/07	Motion for Discovery Hearing Confirmed for 10/12/2007 09:00 AM D- 31		
09/25/07	Proof of Service by Mail Amended Filed		
09/25/07	Proof of Service by Mail Filed		
09/26/07	Civil Law and Motion Hearing Commenced and Completed		
09/26/07	Motion for CCP 128.7 Sanctions Taken Under Submission		
09/26/07	Civil Law and Motion Hearing Commenced and Completed		
09/26/07	Motion for Judgment on the Pleadings Taken Under Submission		
09/26/07	Civil Law and Motion Hearing Commenced and Completed		
09/26/07	Motion for Summary Judgment/Adjudication Taken Under Submission		























































10/01/07	Notice of Plaintiff's Notice of Posting Jury Fees Filed		
10/01/07	Declaration in Opposition Filed by Jeffrey Schreiber, Suzanne Schreiber		
10/01/07	Memorandum of Points and Authorities in Opposition Filed		
10/01/07	Memorandum of Points and Authorities in Opposition Filed		
10/02/07	Order Court will consider this Request for OSC on Oct. 3rd, 2007 @ 1:30pm. Filed		
10/02/07	Hearing Reset to Civil Ex-Parte 10/03/2007 01:30 PM D- 31		
10/02/07	Application Re: Protective Orders Filed for Jeffrey Schreiber, Suzanne Schreiber		
10/02/07	Rejection Letter Issued on Out of State Commission		
10/03/07	Application Re: Protective Orders Filed for Robert Michael Siemons		
10/03/07	Order Ex Parte Application has been Ordered by the Court to be Continued to 10/04/07. Filed		
10/03/07	Re-Notice of Order of Ex Parte Application... Filed		
10/03/07	Proof of Service by Mail Filed		
10/03/07	Proof of Service by Mail Filed		
10/03/07	Declaration in Support Ex Parte Application for Emergency TPO... Filed		
10/03/07	Motion for CCP 128.7 Sanctions Denied		
10/03/07	Motion for Summary Judgment/Adjudication Denied		
10/03/07	Motion for Judgment on the Pleadings Denied		
10/04/07	Proposed Order Received		
10/04/07	Application Re: Protective Orders Denied		
10/05/07	Declaration in Support of Stephen A. Cain In Support of Reply Brief Filed		
10/05/07	Reply Brief to Opposition to Motion to Compel Filed		
10/09/07	Reply Brief in Response to Opposition to Motion to Conduct Financial Discovery Filed		
10/09/07	Motion to Quash Filed		

















































Date	Action	Image (Java)	Image (TIFF)
10/09/07	Motion to Quash Hearing Confirmed for 12/13/2007 09:00 AM D- 31		
10/12/07	Civil Law and Motion Hearing Commenced and Completed		
10/12/07	Motion for Discovery Denied		
10/12/07	Civil Law and Motion Hearing Commenced and Completed		
10/12/07	Motion to Compel (Motion) - Granted in Part		
10/30/07	Civil Law and Motion Hearing Commenced and Completed		
10/30/07	Motion for Pro Hac Vice Denied		
11/01/07	Proof of Service on Complaint As to Schreiber & Associates P.C. Filed		
11/01/07	Request Re: Entry of Default as to Party Schreiber & Associates P.C. Filed		
11/02/07	Master Jury Trial Called and Continued		
11/02/07	Hearing Continued to Master Jury Trial dept: 511 date: 11/05/2007 time: 09:00 AM		
11/05/07	Answer to Complaint Filed for Jeffrey Schreiber, Suzanne Schreiber, Schreiber & Associates P.C.		
11/05/07	Master Jury Trial Called and Continued		
11/05/07	Hearing Continued to Master Jury Trial dept: 511 date: 11/06/2007 time: 09:00 AM		
11/05/07	Motion to Vacate/Set Aside Default Filed for Plaintiff		
11/05/07	Motion to Vacate/Set Aside Default Hearing Confirmed for 01/14/2008 09:00 AM D- 31		
11/06/07	Master Jury Trial Called and Continued		
11/06/07	Hearing Continued to Master Jury Trial dept: 511 date: 11/07/2007 time: 09:00 AM		
11/07/07	Request Re: Entry of Default as to Party As to Schreiber & Associates P.C. Entered		
11/07/07	Master Jury Trial Called and Continued		
11/07/07	Hearing Continued to Master Jury Trial dept: 511 date: 11/08/2007 time: 09:00 AM		
11/08/07	Master Jury Trial Called and Continued		
11/08/07	Hearing Continued to Master Jury Trial dept: 1 date: 02/01/2008 time: 08:44 AM		
11/28/07	Memorandum of Points and Authorities in Opposition Filed		
12/06/07	Reply Filed		
12/06/07	Declaration in Support of Reply Brief Filed		
12/07/07	Amended Notice of Motion Filed		
12/07/07	Memorandum of Points and Authorities in Support Filed		
12/13/07	Civil Law and Motion Hearing Commenced and Completed		
12/13/07	Motion to Quash - Dropped		
01/02/08	Substitution of Attorney Filed for Schreiber & Associates P.C.		
01/02/08	Substitution of Attorney Filed for Jeffrey Schreiber		

01/02/08	Substitution of Attorney Filed for Suzanne Schreiber		
01/03/08	Opposition to Motion to Set Aside Default Filed		
01/03/08	Declaration in Support Opposition to Motion to Set Aside Default Filed		
01/04/08	Other Exparte Reservation Set for dept: 31 date: 01/08/2008 time: 01:30 PM		
01/04/08	Notice of to appear at trial Filed		
01/07/08	Motion for Pro Hac Vice Reservation Set for dept: 31 date: 03/06/2008 time: 09:00 AM		
01/07/08	Opposition Filed		
01/07/08	Memorandum of Points and Authorities in Reply Filed		
01/07/08	Permission to Appear Pro Hac Vice Reservation Set for dept: 31 date: 01/08/2008 time: 01:30 PM		
01/07/08	Order Shortening Time Reservation Set for dept: 31 date: 01/09/2008 time: 01:30 PM		
01/08/08	Application Re: Order Shortening Time Filed for Jeffrey Schreiber, Suzanne Schreiber		
01/08/08	Application Re: Permission to Appear Pro Hac Vice Filed		
01/08/08	Opposition to Ex-parte Application Filed by Robert Michael Siemons		
01/08/08	Application Re: Order Shortening Time Granted		
01/08/08	Application Re: Permission to Appear Pro Hac Vice Denied		
01/09/08	Order Shortening Time Reservation Set for dept: 31 date: 01/10/2008 time: 01:30 PM		
01/09/08	Motion to be Relieved from Default Filed by Harris and Dial P.C., Suzanne Schreiber, Jeffrey Schreib		
01/09/08	Motion to be Relieved from Default Hearing Confirmed for 01/29/2008 09:00 AM D- 31		
01/10/08	Application Re: Other Exparte Filed:		
01/10/08	Proof of Personal Service on Application Re: Other Exparte As to Jeffrey Schreiber, Suzanne Schreibe		
01/10/08	Notice of Association of W. H. Harris as Additional Counsel of Record for Defs... Filed		
01/10/08	Notice of Hearing on Application for Admission of W. H. Harris... Filed		
01/10/08	Application Re: Other Exparte Granted		
01/14/08	Civil Law and Motion Hearing Commenced and Continued		
01/14/08	Motion to Vacate/Set Aside Default - Motion Rescheduled		
01/14/08	Hearing Continued to Civil Law and Motion dept: 31 date: 01/29/2008 time: 09:00 AM		
01/14/08	Application Re: Permission to Appear Pro Hac Vice Filed		
01/14/08	Notice of Hearing Filed		
01/14/08	Proof of Service Filed		
01/14/08	Proof of Service Filed		
01/14/08	Proof of Service Filed		
01/14/08	Proof of Service Filed		
01/24/08	Reply Filed		























































			
01/25/08	Hearing Reset to Motion for Pro Hac Vice 01/29/2008 09:00 AM D- 31		
01/25/08	Substitution of Attorney Filed for Schreiber & Associates P.C.		
01/25/08	Motion Application for Admission of W. H. Harris...Pro Hac Vice Filed by Suzanne Schreiber, Jeffrey		
01/25/08	Motion Hearing Confirmed for 01/29/2008 09:00 AM D- 31		
01/29/08	Civil Law and Motion Hearing Commenced and Completed		
01/29/08	Motion Granted		
01/29/08	Civil Law and Motion Hearing Commenced and Completed		
01/29/08	Motion to be Releived from Default Granted		
01/29/08	Declaration Of Stephen A Cain In Response To Objections Filed By Defendant 1st USA Bk Filed		
01/29/08	Civil Law and Motion Hearing Commenced and Continued		
01/29/08	Motion to Vacate/Set Aside Default - Motion Rescheduled		
01/29/08	Hearing Continued to Civil Law and Motion dept: 31 date: 02/28/2008 time: 09:00 AM		
02/01/08	Application Re: Continuance of Trial Date Filed for Jeffrey Schreiber, Suzanne Schreiber		
02/01/08	Master Jury Trial Called and Continued		
02/01/08	Hearing Continued to Master Jury Trial dept: 1 date: 02/04/2008 time: 08:45 AM		
02/01/08	Miscellaneous Sign In Sheet Filed		
02/01/08	Declaration Re: Peremptory Challenge as to Judge Gordon S. Baranco Filed for Robert Michael Siemons		
02/01/08	Declaration Re: Peremptory Challenge as to Judge Gordon S. Baranco Granted		
02/01/08	Declaration Re: Peremptory Challenge as to Judge Cecilia P. Castellanos Filed for Jeffrey Schreiber		
02/01/08	Declaration Re: Peremptory Challenge as to Judge Cecilia P. Castellanos Granted		
02/01/08	Application Re: Permission to Appear Pro Hac Vice Dropped		
02/04/08	Master Jury Trial Called and Continued		
02/04/08	Hearing Continued to Master Jury Trial dept: 1 date: 02/05/2008 time: 08:44 AM		
02/05/08	Master Jury Trial Called and Continued		
02/05/08	Hearing Continued to Master Jury Trial dept: 1 date: 02/06/2008 time: 08:44 AM		
02/06/08	Master Jury Trial Called and Continued		
02/06/08	Hearing Continued to Master Jury Trial dept: 1 date: 02/07/2008 time: 08:44 AM		
02/07/08	Master Jury Trial Called and Continued		
02/07/08	Hearing Continued to Master Jury Trial dept: 1 date: 02/08/2008 time: 08:44 AM		
02/08/08	Separate Document Sign In Sheet Filed		
02/08/08	Master Jury Trial Called and Continued		























02/08/08	Hearing Continued to Master Jury Trial dept: 1 date: 02/11/2008 time: 08:44 AM		
02/11/08	Master Jury Trial Called and Continued		
02/11/08	Hearing Continued to Master Jury Trial dept: 1 date: 02/13/2008 time: 08:44 AM		
02/13/08	Master Jury Trial Called and Continued		
02/13/08	Hearing Continued to Master Jury Trial dept: 1 date: 02/14/2008 time: 08:44 AM		
02/14/08	Master Jury Trial Called and Continued		
02/14/08	Hearing Continued to Master Jury Trial dept: 1 date: 03/28/2008 time: 08:44 AM		
02/21/08	Reply Brief in Support of Motion Filed		
02/21/08	Declaration in Support Filed		
02/22/08	Declaration in Opposition to Motion to Set Aside Default Filed by Robert Michael Siemons		
02/22/08	Declaration in Opposition to Motion to Set Aside Default Filed by Robert Michael Siemons		
02/22/08	Motion to Strike Filed by First USA Bank, N.A.		
02/22/08	Motion to Strike 02/28/2008 09:00 AM D- 31		
02/28/08	Civil Law and Motion Hearing Commenced and Completed		
02/28/08	Motion to Vacate/Set Aside Default Denied		
02/28/08	Civil Law and Motion Hearing Commenced and Completed		
02/28/08	Motion to Strike Denied		
03/28/08	Master Jury Trial Called and Completed		
03/28/08	Hearing Assigned to Civil Jury Trial 03/28/2008 10:00 AM Dept: 23		
03/28/08	Civil Jury Trial Commenced and Continued		
03/28/08	Trial Brief Plaintiff's Filed		
03/28/08	Miscellaneous Plaintiff's Statement of the Case Filed		
03/28/08	List of Witness Plaintiff's Filed		
03/28/08	Plaintiff's Proposed Jury Instructions Filed		
03/28/08	Exhibit Lists Plaintiff's Filed		
03/28/08	Motion in Limine Plaintiff's (1,2, and 3 combined) Filed		
03/28/08	Trial Brief Defendant, Schreiber & Associates Filed		
03/28/08	Defendant's Proposed Jury Instructions (Schreiber & Associates) Filed		
03/28/08	Miscellaneous Defendant Schreiber & Assoc. Proposed Voir Dire Filed		
03/28/08	Motion in Limine (Schreiber & Associates) No. 1 exclude reference to Liability Insurance Filed		
03/28/08	Motion in Limine (Schreiber & Associates) No. 2 to Exclude Non Party Witnesses Filed		
03/28/08	Motion in Limine (Schreiber & Associates) No. 3 to Require 24hr Notice on Witnesses and Documents F		
03/28/08	Motion in Limine (Schreiber & Associates) No. 4 to Exclude Evidence of Claims for Damages beyond Sta		

03/28/08	Miscellaneous (Schreiber & Associates) Objections to Plaintiff's Exhibits Filed		
03/28/08	List of Witness (Defendants Jeffrey & Suzanne Schreiber) Filed		
03/28/08	Exhibit Lists Jeffrey & Suzanne Schreiber's Amended List Filed		
03/28/08	Defendant's Proposed Jury Instructions Jeffrey and Suzanne Schreiber's Filed		
03/28/08	Miscellaneous Jeffrey & Suzanne Schreiber's Proposed Special Finds for Punitive Damages Filed		
03/28/08	Miscellaneous Jeffrey & Suzanne Schreiber's Proposed Voir Dire Filed		
03/28/08	Jury Verdict (Special) Jeffrey & Suzanne's Schreiber's (Defamation) Filed		
03/28/08	Jury Verdict (Special) Jeffrey & Suzanne Schreiber's (Emotional Distress) Filed		
03/28/08	Miscellaneous Jeffrey & Suzanne Schreiber's Designation of Deposition Testimony of Jayson Maples Fil		
03/28/08	Motion in Limine Jeffrey & Suzanne Schriebier's Amended Motions Filed		
03/28/08	Trial Brief Defendants Jeffrey and Suzanne Schreiber Filed		
03/28/08	Hearing Continued to Civil Jury Trial dept: 23 date: 04/01/2008 time: 09:30 AM		
04/01/08	Civil Jury Trial Commenced and Continued		
04/01/08	Hearing Continued to Civil Jury Trial dept: 23 date: 04/02/2008 time: 09:30 AM		
04/01/08	Miscellaneous Motion in Limine No. 5 (Defendant Schreiber & Associates) Filed		
04/01/08	Miscellaneous Plaintiff's Opposition to Amended Motions in Limine Filed		
04/02/08	Proof of Service by Mail Filed		
04/02/08	Proof of Personal Service on Complaint - Defamation As to Schreiber & Associates P.C. Filed		
04/02/08	Civil Jury Trial Commenced and Continued		
04/02/08	Request for Hardship Disqualification Filed		
04/02/08	Hearing Continued to Civil Jury Trial dept: 23 date: 04/03/2008 time: 09:30 AM		
04/03/08	Civil Jury Trial Commenced and Continued		
04/03/08	Hearing Continued to Civil Jury Trial dept: 23 date: 04/07/2008 time: 09:30 AM		
04/07/08	Civil Jury Trial Commenced and Continued		
04/07/08	Trial Brief Plaintiff's Supplemental Brief on Statute of Limitations and Amending Complaint Filed		
04/07/08	Hearing Continued to Civil Jury Trial dept: 23 date: 04/08/2008 time: 09:30 AM		
04/07/08	Order for Sanctions Filed		
04/08/08	Civil Jury Trial Commenced and Continued		
04/08/08	Hearing Continued to Civil Jury Trial dept: 23 date: 04/09/2008 time: 10:00 AM		
04/08/08	Trial Brief Plaintiff's Supplemental on Authentication of Credit Reports Filed		
04/09/08	Civil Jury Trial Commenced and Continued		



04/09/08	Opposition To Pltf's Supplemental Trial Brief On Statue Of Limitations & Amending Complaint Filed		
04/09/08	Miscellaneous Defendant Schreiber & Assoc, PC Motion For Nonsuit Filed		
04/09/08	Miscellaneous Motion For Non-Suit Of Defs Jeffrey Schreiber & Suzanne Schreiber Filed		
04/09/08	Miscellaneous Jndr Of Defs Jeffrey & Suzanne Schreiber In Schreiber & Assoc's Oppo To Defs' Further		
04/09/08	Hearing Continued to Civil Jury Trial dept: 23 date: 04/14/2008 time: 09:30 AM		
04/10/08	Hearing Reset to Civil Jury Trial 04/10/2008 09:30 AM D- 23		
04/10/08	Civil Jury Trial Commenced and Continued		
04/10/08	Hearing Continued to Civil Jury Trial dept: 23 date: 04/14/2008 time: 09:30 AM		
04/14/08	Civil Jury Trial Commenced and Continued		
04/14/08	Order Re: Jury Instructions and Verdict Forms Filed		
04/14/08	Hearing Continued to Civil Jury Trial dept: 23 date: 04/15/2008 time: 09:30 AM		
04/15/08	Order from DCA Filed		
04/15/08	Civil Jury Trial Commenced and Continued		
04/15/08	Request by the Jury Filed		
04/15/08	Request by the Jury Filed		
04/15/08	Hearing Continued to Civil Jury Trial dept: 23 date: 04/16/2008 time: 09:30 AM		
04/16/08	Civil Jury Trial Commenced and Completed		
04/16/08	Request by the Jury Filed		
04/16/08	Compliance Hearing 06/26/2008 09:00 AM D- 23		
04/16/08	Jury Seating Chart Filed		
04/16/08	Exhibit Lists Filed		
04/16/08	Final Jury Instructions Filed		
04/16/08	Jury Verdict (Special) Filed		
04/16/08	Log of Court Reporter Fees Filed		
04/16/08	Miscellaneous Stipulation and Order for Removal and/or Destruction of Exhibits at the Close of Trial		
04/16/08	List of Jurors and Fees Paid Filed		
04/16/08	List of Witness Filed		
04/16/08	Miscellaneous Log of Court Reporters Filed		
04/29/08	Judgment Partial As to Schreiber & Associates P.C. Filed		
04/29/08	Judgment Entered		
04/29/08	Judgment Partial As to Jeffrey Schreiber, Suzanne Schreiber Filed		
04/29/08	Judgment Entered		
05/02/08	Notice of Entry of Judgment Filed		
05/05/08	Notice of Entry of Judgment Filed		

			
05/14/08	Memorandum of Costs (Summary) Filed for Jeffrey Schreiber, Suzanne Schreiber		
05/16/08	Memorandum of Costs (Summary) Filed for Schreiber & Associates P.C.		
06/18/08	Notice of Appeal Filed by Robert Michael Siemons		
06/19/08	Notice to Attorney re Notice of Appeal Filed		
06/19/08	Notice to Attorney re Notice of Appeal Filed		
06/19/08	Notice to Attorney re Notice of Appeal Filed		
06/24/08	Letter re payment for Court of Appeals and Reporter's Transcript on Appeal Received		
06/25/08	Memo to Case Re Deposit for Reporter's Transcript on Appeal Received		
06/26/08	Compliance Hearing Commenced and Completed		

2

Page: 1 2

# **EXHIBIT H**

# The Schreiber Law Firm, LLC

## BANKRUPTCY AND BUSINESS LAWYERS

Home

About Our Firm

Firm Culture

Attorney Profile

Areas of Practice

Bankruptcy Questions

Exemptions

Experts Only

Resource Center

Contact Us



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## "Solutions for Financially Distressed People & Companies"

Debt Restructuring • Chapter 11 Business Reorganization • Acquisition of Troubled Companies • Chapter 7 and Chapter 13 Consumer and Business Bankruptcy

Bankruptcy, Business and Chapter 11 lawyer Jeff Schreiber, based in both Marion, Indiana and New England has provided more than 25 years of compassionate and skilled legal experience to people and companies facing financial distress and business crises.



Services to troubled people and companies include:

- Chapter 7 and Chapter 11 Representation
- Advice on Strategies and Alternatives
- Chapter 11 Reorganizations
- Out-of-Court Debt Restructuring

The bankruptcy laws are complex and you have many rights about which you need to learn. Mr. Schreiber is one of a few attorneys who has limited his law practice to Chapter 11 business reorganization and consumer bankruptcy.

Don't allow your financial problems threaten your business, health, marriage, retirement savings or employment stability. Timing is often critical. Seek advice early before you have no options.

Mr. Schreiber combines his knowledge of the bankruptcy laws with the wisdom of his vast experience. Find a cost-effective solution to your problems.

***Arrange A Free, No Obligation In Office Consultation  
Immediately Contact Mr. Schreiber At 765-673-6300***

The Schreiber team recognizes that each case is different, each client is different, and each client has different needs. Therefore, we provide personal attention to all clients from the initial consultation through the conclusion of the engagement.

### Contact Information:

**THE SCHREIBER LAW FIRM, LLC**

**Midwest Office**  
810 S. Baldwin Avenue  
Marion, IN 46953

**Phone:**  
765-673-6300

**Fax:**  
765-664-5888

**Email:**  
[jschreiber@schreiblaw.com](mailto:jschreiber@schreiblaw.com)

**New England Office**  
53 Stiles Road, Suite A102  
Salem, NH 03079

**Phone:**  
603-870-5333

**Email:**  
[jschreiber@schreiblaw.com](mailto:jschreiber@schreiblaw.com)

It is because of this personalized service, combined with years of experience, that clients are informed and knowledgeable about their case.

Since 1983, Mr. Schreiber has successfully handled the following types of cases, both from the debtor and creditor side, including, but not limited to:

- Chapter 7 bankruptcy
- Chapter 13 bankruptcy
- Chapter 11 business reorganizations
- Business liquidations
- Out of court workouts
- Assignments for the benefit of creditors
- Foreclosures
- Repossessions
- Judgments
- Bankruptcy litigation
- Trustee Representation

**We practice law in Indiana, Massachusetts, New Hampshire, New York and the District of Columbia.**

**For A Free, No Obligation Consultation  
Contact The Schreiber Law Firm, LLC  
at either our Indiana or New England office.**

**We are a debt relief agency. We help people and companies file for bankruptcy relief under the Bankruptcy Code. And, we have done so proudly since 1983**

All content on this website is for informational purposes only. Nothing on this website should be considered as a legal opinion. If the reader desires a legal opinion, he/she should contact The Schreiber Law Firm, LLC. In order for The Schreiber Law Firm, LLC to represent you, it requires a signed written agreement in which you agree to retain the firm as your attorneys and the firm agrees to represent you as a client.

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# The Schreiber Law Firm, LLC

## BANKRUPTCY AND BUSINESS LAWYERS

[Home](#)
[About Our Firm](#)
[Firm Culture](#)
[Attorney Profile](#)
[Areas of Practice](#)
[Bankruptcy Questions](#)
[Exemptions](#)
[Experts Only](#)
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## Attorney Profile

### JEFFREY A. SCHREIBER

810 S. Baldwin Avenue

Marion, IN 46953

Telephone: 765-673-6300

FAX: 765-664-5888

Email: [jschreiber@schreiblaw.com](mailto:jschreiber@schreiblaw.com)



### INDIANA BANKRUPTCY ATTORNEY JEFFREY A. SCHREIBER

Listed as an "AV" rated lawyer (the highest rating) attorney in the Martindale Hubbell National Legal Directory

Member of Private Panel of Chapter 7 Bankruptcy Trustees, Office of the U.S. Trustee for the First Circuit, U.S. Department of Justice (1988-2004)

### EDUCATION

- J.D. - Syracuse University College of Law May 1982 -
  - Honors: Adelpia Law Journal, Moot Court & Board Dean's List Student
- B.A. - Bowdoin College, Brunswick, Maine - 1979 Magna Cum Laude (Major: Government and Legal Studies)
  - Honors: Dean's List Student

### PROFESSIONAL EXPERIENCE

- **2003 - Present**  
 Owner - The Schreiber Law Firm, LLC, Marion, Indiana - law firm concentrating in the representation of consumers and businesses in Chapters 7, 11, and 13 proceedings, out of court workouts, business reorganizations, and state and federal court insolvency, liquidation, cases and related business litigation.
- **09/86 - Present**  
 Shareholder, Harris & Dial, LLC with offices in North Andover, Massachusetts and Lake Success, New York. The firm concentrates its practices in business and trial matters with departments concentrating in insolvency and bankruptcy law, business reorganization, creditors' rights, collection and commercial law, banking and finance, and related civil litigation in the state and federal courts throughout New England, New York, and the Midwest.
- **04/84 - 09/86**  
 Associate, Burns & Levinson, Boston, Massachusetts.

### Contact Information:

#### THE SCHREIBER LAW FIRM, LLC

**Midwest Office**  
 810 S. Baldwin Avenue  
 Marion, IN 46953

**Phone:**  
 765-673-6300

**Fax:**  
 765-664-5888

**Email:**  
[jschreiber@schreiblaw.com](mailto:jschreiber@schreiblaw.com)

**New England Office**  
 53 Stiles Road, Suite A102  
 Salem, NH 03079

**Phone:**  
 603-870-5333

**Email:**  
[jschreiber@schreiblaw.com](mailto:jschreiber@schreiblaw.com)

Member of firm's business trial department concentrating in bankruptcy, federal and state court litigation.

• **09/83 - 04/84**

Associate, Parker, Coulter, Daley & White, Boston, Massachusetts. Member of firm's business trial department.

• **09/82 - 09/83**

Law Clerk, Hon. Leon J. Marketos (deceased), Chief Judge, United States Bankruptcy Court for the Northern District of New York.

## PROFESSIONAL MEMBERSHIPS

- Indiana Bar Association
- National Association of Consumer Bankruptcy Attorneys
- American Bar Association
- American Bankruptcy Institute
- Massachusetts Bar Association
- Massachusetts Academy of Trial Attorneys
- Commercial Law League of America
- Boston Bar Association (1983 - present, Business Reorganization and Commercial Law Committee)
- National Association of Retail Collection Attorneys

## ADMITTED TO PRACTICE LAW IN THE FOLLOWING JURISDICTIONS

- Indiana
- New York
- Massachusetts
- New Hampshire
- Washington, D.C.
- Federal Courts In These States

## ARTICLES / BOOKS

- "Allowing to Fail: Should the Bankruptcy Laws be Eliminated?" BOSTON BUSINESS JOURNAL 36 (Vol. 17, No. 40 November 14 - 20, 1997).
- "Non-Fraudulent Transfers Under Bankruptcy Act," 14 MASSACHUSETTS LAWYERS WEEKLY 913 (Vol. 14, No. 25 March 10, 1986).
- "Bankruptcy Amendments & Federal Judgeship Act," 13 MASSACHUSETTS LAWYERS WEEKLY 413 (Vol. 14, No. 13 December 17, 1984).
- "Consumer Debtor Alternatives: An Approach to Insolvency Counseling under the Bankruptcy Reform Act," 87 COMMERCIAL LAW JOURNAL 475, 573, 636 (October, November & December 1982), reprinted in 37 PERSONAL FINANCE LAW QUARTERLY 19 et seq. (Winter 1983).
- "Medical Implants and the Law," 1982 MEDICAL TRIAL TECHNIQUE QUARTERLY 445.
- "Dries v. Gregor: A Case Study of Informed Consent



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**EDWARD C. DIAL, JR. , ESQ.  
COUNSEL**

THE SCHREIBER LAW FIRM, LLC  
53 Stiles Road, Suite 102A  
Salem New Hampshire 03079  
Telephone: (603) 870-5333  
E-mail: [edial@schreiblaw.com](mailto:edial@schreiblaw.com)

**LEGAL EXPERIENCE**

- **HARRIS & DIAL, P.C.**  
65 Flagship Drive  
North Andover, MA 01845  
Shareholder in firm specializing in bankruptcy law and collections. Responsibilities include litigation in state courts and bankruptcy courts including trials, motion practice and discovery. Areas of practice include bankruptcy law, commercial litigation, foreclosures, collections, secured lending and defending Fair Credit Reporting Act and Fair Debt Collection Practices Act claims.
- **SCHREIBER & ASSOCIATES, P.A.**  
65 Flagship Drive  
North Andover, MA 01845  
Associate in firm specializing in bankruptcy law and collections. Responsibilities included all aspects of litigation in state courts and bankruptcy courts including appeals, trials, motion practice and discovery. Practice areas included bankruptcy law, foreclosures, secured lending and collections.
- **JOSEPH F. McDOWELL, III, P.A.**  
282 North River Road  
Manchester, NH 03104  
Associate in general practice firm specializing in civil litigation. Responsibilities included litigation in state court and bankruptcy court including appeals, trials, motion practice, discovery and settlement negotiations. Practice areas include real estate law, foreclosures, bankruptcy law, secured lending, personal injury and commercial litigation.
- **CULLITY, KELLEY & McDOWELL**  
282 North River Road  
Manchester, NH 03104  
Associate in general practice firm. Areas of practice included products liability, workers compensation, personal injury, real estate and commercial litigation.
- **CONDON & FORSYTH**  
1251 Avenue of the Americas  
New York, New York 10020  
Associate in firm specializing in international aviation law. Areas of practice included aviation law, products liability and employment law in state and federal courts.

**EDUCATION**

- FORDHAM UNIVERSITY SCHOOL OF LAW SCHOOL  
New York, New York  
J.D. awarded May, 1982
- COLUMBIA COLLEGE  
New York, New York  
B.A. awarded May, 1979

## BAR ADMISSIONS

Admitted to practice in state and federal courts in New Hampshire, Massachusetts and New York.

## REPORTED DECISIONS

In re Perry Hollow Management Co., 297 F.3d 34 (1st Cir. 2002); Federal National Mortgage Assoc. v. Town of Fremont, 141 N.H. 156 (1996); Holden Engineering & Surveying, Inc. v. Law Offices of D'Amante, 142 N.H. 213 (1997).

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